

# **MEETING OF THE PARLIAMENT**

Thursday 7 September 2006

Session 2

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# Scottish Parliament

Thursday 7 September 2006

[THE PRESIDING OFFICER *opened the meeting at 09:15*]

## Education

**The Presiding Officer (Mr George Reid):** Good morning. The first item of business is a debate on motion S2M-4755, in the name of Peter Peacock, on education first.

09:15

**The Minister for Education and Young People (Peter Peacock):** It is a great pleasure to have a schools debate as the first subject debate of this new parliamentary term. It is absolutely right that that should be so because, since the outset of devolution, the Executive has given education the highest priority among all the different things that we do.

**David McLetchie (Edinburgh Pentlands) (Con):** Is it not the case that the Executive constantly tells us that the top priority is growing the economy? If that is the case, how can the highest priority be education?

**Peter Peacock:** That is an astonishing comment, which demonstrates how far adrift of the pace the Tories are these days. If we do not have a good education system as the foundation of what we do in our society, we cannot grow the economy. That is why education is so fundamental. Unlike the Tories in the past, we give education the top priority. It is the foundation for future economic growth and for the success of our society, as the First Minister said yesterday.

As we enter the final year of the parliamentary session, it is only right that we reflect on the seven years of devolution, on all that has happened in that time and on how far we have come since the dark, awful days of the Tories. We should not forget how awful they were. The Tories left office with schools crumbling and falling down around the ears of children, with patchy pre-school provision, with policy neglected or entirely misdirected and with teachers demotivated and in despair.

The job of my Labour colleagues in 1997 and of the partnership Executive since 1999 has been to put education back at the top of the political agenda, to reinvest in our schools, to build strength into the foundations of Scottish education, to see performance improve and to set the conditions for long-term success.

We have made truly remarkable progress during that seven-year period. We now have universal free access to early years education. That in itself is one of the biggest changes in a century of Scottish education. We now have under way the biggest building programme of new and refurbished schools ever seen in modern times in Scotland, and because of our approach to financing them they will be the first generation of schools that are guaranteed to be maintained properly throughout their life. Contracts have been signed in 13 council areas for refurbishing and building new schools, and we have agreed plans with councils in another 16 areas to build or refurbish almost 100 further schools. Those are the building projects that the Scottish National Party pledged only last week to cancel—an act, if I may say so, of unpardonable folly.

**Fiona Hyslop (Lothians) (SNP):** First, I must apologise for arriving late for this morning's debate. My children and child care had to come first.

The SNP would have matched, and will match, the Executive's building programme brick for brick and will have money left over for teachers and books, while the current Administration is lining the pockets of private bankers with excessive profits.

**Peter Peacock:** I will come to SNP economic policy in a little while, when I will demonstrate what lunacy that is.

We are investing in teachers. We have signed an historic teachers agreement, bringing better recognition and reward for teachers and new terms and conditions of service. We have legislated to create national priorities in education, inspection of local authorities and a culture of continuous improvement. Those actions, many though they are, were just the start; our plans have been, and remain, ambitious—that is why we have gone on to do much more.

Teaching and teachers remain at the heart of our strategy. We are training more teachers than ever before. Since 2002-03, we have increased the numbers of teachers in training by 92 per cent in secondary schools and by 150 per cent in primary schools. Since 2002-03, we have increased the number of maths and English teachers in training by 116 per cent and 145 per cent respectively. Nearly 9,000 teachers will have entered postgraduate training in the past three years, compared with 5,000 in the previous three years. There are 3,600 probationer teachers in schools this term, with comparable numbers coming through next year. We are recruiting teachers from other parts of the United Kingdom and from abroad—an increase of 112 per cent in two years.

**Murdo Fraser (Mid Scotland and Fife) (Con):**

The minister will be aware that there is a serious concern among probationer teachers that, although they are guaranteed a probationary place, when they complete that placement many of them have great difficulty in finding teaching vacancies for the year that they are after. Is the minister doing anything to address that problem?

**Peter Peacock:** We know that historically, by this time of year, 70-odd per cent of new probationers have found permanent contracts. The vast majority of the remainder provide absence or maternity leave cover. The pattern is the same this year. We have put in an extra £32 million this year specifically to create permanent posts for those teachers, and that sum will rise to £44 million next year. We are preparing the ground for all those teachers to get permanent jobs, because we want to cut class sizes.

The key point is that we are increasing teacher numbers at a time when pupil numbers are falling significantly, and that has created an unprecedented historic opportunity to further cut class sizes and improve pupil teacher ratios. However, simply recruiting and employing more teachers is not enough, and that is why we have been revamping initial teacher education and why we have introduced the most advanced induction scheme in the world for new teachers. Head teachers across Scotland are telling me that the new generation of probationer teachers is the best that they have ever seen, and those new teachers will benefit throughout their careers from continuing professional development—another area in which Scotland leads the world.

We said that we would deliver stronger education and that is exactly what we have been doing. Progressively we are working through and delivering on our agenda for ambitious, excellent schools. In addition to the issues that I have mentioned, we have delivered, among many other things, a new excellence standard for school inspections, and a revised standard for headship, to ensure that new head teachers are better prepared than ever for their jobs. We have removed barriers to primary teachers teaching in secondary schools, and new courses in skills for work are helping pupils to develop better employability skills. We have a radical schools of ambition programme, which is helping to drive change throughout our education system, and we have liberated the power of parents to contribute more to children's learning through our reform of parental involvement.

**Mr Andrew Welsh (Angus) (SNP):** New teachers are welcome, but the minister must be aware that head teachers are doing much more classroom teaching, which is putting enormous pressures on them and inhibiting their ability to

develop leadership skills. What is he doing to help head teachers to become the principals of schools and to fulfil their leadership role?

**Peter Peacock:** I will address the specific point about leadership later. I do not agree with Mr Welsh's claim that head teachers are teaching more. In fact, we are putting in more support staff, to allow head teachers not to teach so much and to provide more support in and around the school.

We gave a commitment to review the curriculum and design a new one, and that is now firmly under way. We debated that fully before the recess. The changes will ensure that our education system gives young people the key capacities that they will need.

Across the globe, others are looking with admiration at Scotland's approach to many issues. We have put strength and focus back into education and we are seeing the benefits. Our chief inspector of schools said in his recent report card on Scottish education that Scotland

"does many things well and some things particularly well."

We know from statistical evidence that we are in the top third of Organisation for Economic Co-operation and Development countries, with our 15-year-olds among the best performing in the world. Attainment is improving, with most pupils performing at or above the literacy and numeracy levels expected for their age. Since our Conservative colleagues left office, performance in five-to-14 tests has improved by 9 per cent on average. In secondary 2 reading, young people have shown a 20 per cent improvement in performance since the Tories left office.

We have produced stable industrial relations and a well-rewarded and respected teaching profession. More than half our school leavers now enter higher education. However, celebrating our strengths must never distract us from doing what we know we need to do to improve. Other nations are investing too, and we need to be among the very best if we are to serve our young people properly. As the First Minister said yesterday, our ambition is that we should be the very best in the world, and we know that there are a number of challenges that we must tackle if we are to do that. I am clear about those challenges to the system as a whole and I am always explicit about them.

We need our young people to be ever more creative if they are to compete in the global marketplace, and many of our curriculum changes are directed to ensuring that that happens. We must ensure that the employability skills of our young people are improved, and that is why we are running skills for work courses and why enterprise education is such a major feature of our system.

**John Swinburne (Central Scotland) (SSCUP):** Will the minister give way?

**Peter Peacock:** I must make some progress with my speech, as I have given way several times.

We know that low attainment is still a factor that is too often associated with those who live in deprived areas, but we also know from our best-performing schools that we can change that. We know that the outcomes for looked-after children are woefully inadequate and still far too low.

Andrew Welsh asked about leadership. We know that weak leadership in a minority of our schools adversely affects the performance of those schools and of pupils in those schools. We also know that differences in performance between classes within schools can be as big, if not bigger, than the differences between schools. That is where leadership has a particularly important role to play.

**Fiona Hyslop:** Will the minister give way?

**Peter Peacock:** I must make more progress. Fiona Hyslop might want to come back on something that I say later.

We know that a significant minority—particularly boys—lack motivation, have low self-esteem and behave badly. These pupils are headed for the NEET category—those who are not in education, employment or training. An unacceptable number of young Scots are in that category, which is why we have a detailed strategy in place to deal with the issue.

Whatever else we do, we will keep at the centre of all that we do in the future an emphasis on the three Rs. We are examining the implications of the new curriculum for the qualifications system.

Ambition cannot be raised or realised without effective leadership. Where leadership is weak, I will support strongly the local authorities in taking difficult decisions to deal with the issue. In turn, a mark of an effective leader in their school is their ability to tackle underperformance among their staff. I plan to do more to support head teachers in that challenging task in the period to come.

We have used the last seven years wisely. We have given education top priority and repaired the damage of the Tory years. We have made unprecedented investments in our system, but there is much more that we want to do and will go on to do. The remainder of this parliamentary session will be spent on delivering more of what we have promised. Our commitment to extra teachers and new schools will be at the forefront of that. For me and my colleagues, education comes first. For me and my colleagues, education is the foundation for national success and, for me and my colleagues, education is a national purpose.

As we reach the end of this parliamentary session, the people of Scotland will have a choice. As I have set out briefly today, our record is there for all to see and to judge and our commitment to education in the future is manifest. People could turn back to the dark days of the Tories. There they are, sitting in their seats in the chamber—only three of them are left. They are forlorn, dispirited and even the three of them are divided. They have not had a single new idea in education since the day they left office almost a decade ago and they are still searching for the magical new packaging around their ancient ideas—the ideas that the Scottish people have rejected over all time and will reject again in the future.

Alternatively, people could turn to the SNP. Some might mistakenly be contemplating that possibility, but they should beware because it would be as big a mistake to support the SNP as it would be to support the Tories. The SNP has had not only a period in opposition, but a lifetime in opposition, yet it has still to have any substantial idea about schools in Scotland. If members scan the horizon for a significant innovation in SNP policy on schools, they will not see one. The SNP is the vacuum in thinking on Scottish education.

As we heard yesterday, the only thing that the SNP really believes in is independence. That is the only purpose that unites the disparate forces in the SNP: the right wingers and left wingers, the fundamentalists and the gradualists. The only thing that they are focused on is separating us from our friends and relatives in the rest of the United Kingdom. As we all know—SNP members may not like it, but they are going to hear it—separation and divorce is a very expensive business.

I turn to Fiona Hyslop's point about the SNP's economics. The world of fantasy economics and fuzzy maths dominates the SNP, which has still to tell the Scottish people how Utopia will be financed. How is it possible to finance the modern and competitive schools that we envisage and need in the future with a fiscal deficit running into billions of pounds? If the SNP had its way, more and more Scots over time would be paying taxes that would go to fund the interest on borrowing to cover that deficit—[*Laughter.*] SNP members laugh, but this is real for the people of Scotland. In those circumstances, how would it be possible to fund extra teachers and the new curriculum?

Given the SNP's declaration on student debt, which commits billions of pounds and buys not a single extra university place for a student in Scotland, where will it find the billions of pounds to keep investing in our schools?

The nationalists need to answer many and detailed questions over the coming months. They might smirk, but they will have to answer those

questions because we will keep putting them. Nothing in what they have said so far indicates that education is a priority for them.

Consider Alex Salmond's pledges for the SNP's first 100 days in government—a period in which any Government sets the tone for what it plans to do for the whole of its administration. Members will find not a single word on schools. In fact, the SNP's only clear policy on schools is a negative: the cancellation of school building programmes.

So, if someone lives in Dumfries or Dundee, Edinburgh or Inverclyde, West Lothian or the Western Isles, Aberdeen or Ayrshire South, or in many other areas of Scotland—

**Mr Welsh:** Will the member give way?

**Peter Peacock:** I cannot give way as I am over time.

People in those areas should beware of the SNP, because the schools for which they have campaigned for years—schools that are on the brink of being delivered by their local authorities—will be cancelled by the SNP.

A big choice is coming. It is the choice between buying books or breaking up Britain. It is the choice between a focus on the three Rs or the only R that the SNP is interested in: a referendum. It is the choice between a focus on skills for work or separation and the choice between investing in schools or the uncertainty of independence.

To the SNP, schools are not a priority. For me and my colleagues, education comes first: schools not separation; investment not independence; curriculum not constitutional turmoil. As the First Minister again made clear yesterday,

"Learning is Scotland's strategy for the future."—[*Official Report*, 6 September 2006; c 27151.]

The choice could not be clearer.

I move,

That the Parliament welcomes the priority given to improving education standards by the Scottish Executive and the achievements delivered by schools, local authorities and other partners in taking forward the comprehensive modernisation of our schools and ensuring that Scotland's education system is amongst the best in the world; recognises that the Executive's investment in new and refurbished schools, increased teacher numbers, reducing class sizes, strong parental involvement, stable industrial relations and more targeted support for children with additional support needs is providing the right environment for real and lasting change for Scotland's children; believes that the education of all Scotland's children and young people is fundamental to securing a more productive, integrated and successful Scotland in which all our young people can compete in a global economy and all our 16 to 19-year-olds are in education, employment or training, and calls on all those in the Parliament to focus on Scotland's future and put the education of our children before divisive arguments about separating Scotland from the rest of the United Kingdom.

09:31

**Fiona Hyslop (Lothians) (SNP):** In this chamber we share a collective responsibility to shoulder the desire of this and previous generations to uphold the fundamental importance that Scots place on education. We share that responsibility to open up the horizons, life chances and opportunities for fulfilment for our children so that they can fulfil themselves as individuals and collectively drive our economy in an increasingly knowledge-based arena. No political party has a monopoly on that.

Scotland has long held the value and importance of education in high esteem. We could say that, as a nation, we were the first country to put education first—from the first days of comprehensive schooling, when there was a school in each parish that provided literacy skills to enable people to read the Bible, to the modern recognition that learning is lifelong. In that spirit I commend those who are taking part in the activities of learning month this September.

The understanding of the democratic intellect as the foundation for our nation must not be lost on politicians. Neither the Labour leader Tony Blair, nine years ago, nor the current First Minister, can claim a Scottish national education heritage and badge it as a party advantage; nor should they imply that education is somehow removed from our constitutional state. Surely even the minister, with his limited historical analysis—this is the man who threatened to compromise the future of history teaching—would understand that Scotland has a distinct and independent education system precisely because that system was founded in, fought for and nurtured from the days when Scotland was last independent.

Thankfully, the historically challenged minister has now been thrown a lifebelt—I hope that he will accept it—by the Scottish Association of Teachers of History, in relation to how our children can learn about their place in the world and the world's history in a structured, ordered and meaningful way. I urge him to take the association's proposals seriously.

Education should be used neither as a crutch for a Government that sees little progress being made elsewhere nor as a punch-bag for political posturing. The Deputy First Minister and Minister for Enterprise and Lifelong Learning's use yesterday of the academic work of a world-renowned scientist as a political punch-bag was an appalling attack on the world of science in Scotland. We will ensure that every scientist in Scotland knows how little the Liberal Democrats value science. Education ministers now—as we will do in Government—must act as stewards and leaders to drive forward an already strong system, to remove the barriers that reinforce weakness in

the system, to lead strategically and to set out our vision.

I will talk about our amendment, but first I will focus on the Government's motion. More teachers are being recruited, but it is a bit late and there will not be enough of them in the classrooms to cut class sizes. How do we know that? The Educational Institute of Scotland has voted to ballot on industrial action because of this Government's failure to cut class sizes. Does that count as the "stable industrial relations" that are mentioned in the motion? After seven years of Labour-Liberal Democrat rule and nine years of Labour rule, so confident is the Government of its achievement in this area that it cannot tell us how many pupils are still in classes that are too big. The report that came out in February of this year said that four out of 10 primary 1 children were being taught in classes that were too big. For the parents of primary schoolchildren who are sitting in classes of more than 30, that is just not good enough. I invite the minister to come back and boast when he has delivered on cuts in class sizes and not before.

Targeted support for children with additional support needs is not being delivered properly; the minister can ask any MSP in the chamber for their constituency casework. Head teachers tell us that they need more power over budgets in this area so that they can staff and resource to children's special needs rather than to budgets.

The one mark of the Government's ambition is for all our 16 to 19-year-olds to be in education, employment or training, but that leap is from the current position whereby we are one of the worst in the world. That is hardly a glowing tribute after seven years of being in Government. I hope that we will have a debate on that specific challenge.

The Government's figures, which were published in March 2006, told the reality of static education performance in pupils achieving foundation levels 3, 4, and 5, general and credit at standard grade and intermediate 1 and 2, which are all the qualifications below the higher grade. We have a strong education system and that fact is reflected in international studies, but improvement is measured by trend analysis of absolute performance. Are Labour and Liberal Democrat ministers seriously gloating over the fact that consistently in the past three consecutive years only 34 per cent of Scotland's pupils in S4, S5 and S6 have achieved a credit standard grade? That is no improvement whatsoever. Further, there has been no movement in level 3 and 4 performance.

Many pupils leave school with the lack of skills that CBI Scotland has complained about. Jack McConnell may think that pupils sitting another exam the day before they leave school will fix

literacy and numeracy problems, but what we need are lifetime skills, generated over the course of a pupil's time at school. Overassessment is a barrier to lifetime literacy and numeracy. Up to the age of eight, a child learns to read but from eight on they read to learn. We say that we should tackle literacy and numeracy with firm foundations in the early years, with class sizes of 18 from primary 1 to primary 3.

The SNP policy proposals for education, which we will lay out in the coming months and in our 100 days document, are based on five fundamental principles for opportunity and achievement: an early start is the best start; an international outlook; aspirational ambition; egalitarian values; and a community approach. However, the SNP amendment includes practical proposals for effective governance. They are SNP education policy, but perhaps what is more important is that they are the self-same requests made by the head teachers and deputy head teachers in the Headteachers Association of Scotland, who are Scotland's education leaders in the field.

We propose that more school funding should be devolved; the 80 per cent target is not being met and the figure is down at 50 per cent in some local authorities. We propose real cuts in class sizes. The Government knows that teachers are being recruited but are not being employed in the classes, which is why, as Murdo Fraser mentioned, we have post-probationers who cannot get jobs. The Government has mishandled the funding for teacher recruitment between councils with growing school rolls and those with falling school rolls. Let us open the books to track the spend and ascertain where the money is going. It is the number of teachers in the classroom that matters and not the number who are registered with the General Teaching Council for Scotland. The situation is a classic dependence by the Government on inputs and not outputs when it comes to education policy.

**The Deputy Minister for Education and Young People (Robert Brown):** I seek a bit of clarification from Fiona Hyslop. I think that she accepts that substantial numbers of new teachers are being recruited, which is obviously the key issue in this regard, but she says that the teachers are not in the classroom. Where does she think they are? In addition, can she give us a costing for the policy of having class sizes of 18 and indicate where the money will come from for that in the SNP programme?

**Fiona Hyslop:** There were a number of questions there; perhaps I will take the human one first, which referred particularly to post-probationer teachers who cannot get employment because local councils are not employing them. Some

councils with rising school rolls say that they have not been given sufficient funding to deal with that, but other councils with falling school rolls are getting too much. The human element in that is that if a post-probationer teacher has not got a teaching job, they can be stacking shelves. That is exactly the point that was made to me by people who cannot get a teaching job in schools just now. It is a serious problem; 2007 should have been the end date for cutting class sizes, not the start date.

The SNP wants nursery teachers to remain in nursery classes, but Labour wants to take the nursery teachers out. The introduction of free school meals in the early years was another request from the leaders in the education field. If we are serious about tackling obesity and bad behaviour, let us adopt the SNP policy. If the Government is not able to adopt the SNP policy, it should move over so that Scotland can move on with the SNP.

Scotland was promised education, education, education nine years ago when Labour came to power, but Jack McConnell's little-me version is a bit late and, I might say, a bit overanxious. The child who started school in 1997 as a bright-eyed five-year-old is now 14 and will be 15 next year. They will have gone through their education without benefiting from cuts in class sizes, the revised national curriculum, the promise of more physical education teachers or a range of other promises that have still not been delivered.

Many of those children will be taught in new or refurbished schools over the coming period, which overcomes 18 years of underinvestment by the Conservatives, but the SNP will match the building of new schools brick for brick with our not-for-profit funding and, unlike the Liberal Democrats and Labour, we will have money left over for books and teachers in the future, rather than lining the pockets of bankers with excessive private profit.

**David McLetchie:** Will the member give way?

**Fiona Hyslop:** No, I need to finish.

Scottish education needs strong leaders politically and it needs to respect leaders in education. That is why the SNP amendment reflects the concerns of head teachers in Scotland. What is most important however is that Scottish education needs leadership that is more passionate about what education can do permanently for Scotland's children and the country than about what it can do temporarily for party-political advantage.

Labour's latest focus in education—nine years on from a promise of education, education, education—is sad and stale, and will produce static results. Scotland had the best education system in the world and it can be the best again, but not just by wishing for it. The Government has

to move over and the Parliament has to move on. It is time for energy, delivery, dynamic vision and passionate leadership of education in Scotland.

I move amendment S2M-4755.3, to leave out from "the priority" to end and insert:

"continuing excellence within Scotland's distinct and independent education system, appreciated internationally for its pioneering work in quality improvement; recognises the challenges faced by schools, education authorities and other partners to modernise the school estate, to drive up standards and to tackle deep-seated problems such as persistent under-performance among disadvantaged pupils; notes that the Scottish Executive's promises to cut class sizes and adequately resource additional support needs remain unfulfilled; supports requests from school leaders for more funding for schools to be devolved, real cuts in class sizes, nursery teachers to remain in nursery classes and for the introduction of free school meals in the early years; calls for the replacement of PPP funding for school modernisation by not-for-profit trust funding; believes that the education of all Scotland's children and young people is fundamental to securing a more productive, integrated and successful Scotland in which all our young people can participate fully, and looks forward to further strengthening of our distinctive education system using the enhanced powers and resources at the command of an independent parliament."

09:42

**Lord James Douglas-Hamilton (Lothians)**

**(Con):** I very much welcome the fact that in this, the first week of the new Parliamentary term, we are discussing what is arguably the most important issue that the Parliament has responsibility over, namely the education of our children and young people. While the Scottish Conservatives very much share the Executive's ambition of making economic growth the top priority of the Parliament, we believe that investing in education is the most significant tool that we have in seeking to create a prosperous economic future for our nation.

In the short time that I have, I will touch briefly on three important aspects of the debate that I believe must be central to our approach in the coming year. The first is the role of further education colleges, to echo the calls of those who want a heightened status for our excellent further education sector. The business-led vocational training offered by further education colleges shall become ever more important and relevant in the years ahead, particularly as businesses seem increasingly to voice concerns about the lack of suitable skills emerging in the workforce. I note that discontent about that issue has been expressed by the CBI in today's press.

Although every pupil who has the ability and desire to go to university must be encouraged to do so, I fear that the obsession with getting ever more young people to take degrees has been counterproductive. Pupils must be presented with all the options available to them when they leave, be they vocational or otherwise, and must not be

made to feel that further education colleges are a lesser option than universities. It is also essential that all pupils aged 14 or above be given the opportunity to access vocational training at colleges as part of their school education, if they wish to do so. Sadly, we understand that that is not happening everywhere, in spite of the Executive's intentions.

A second issue of concern is special educational needs and additional support needs. We believe that our education system must enable every child to find fulfilment according to his or her ability, aptitude and inclination. Special schools are crucial to that vision. I am therefore greatly concerned, as I know many others are, by the Executive's presumption of mainstreaming, which may in the long run threaten the very existence of special schools. I can do no better than quote Sandy Fowler of the EIS, who said recently:

"the Scottish Executive's policies of inclusion and the presumption of 'mainstreaming' have presented new and difficult challenges for teachers."

**Peter Peacock:** Will the member give way?

**Lord James Douglas-Hamilton:** In a moment. The minister told me that only just over 2,000 teachers in Scotland have any sort of special needs qualification, which is a tiny fraction of the 50,000 teachers in Scotland today. By the minister's own admission, the information with which he has provided me is "not considered robust." If that is so, how can we know that anything like enough properly qualified teachers are available to cope with the Executive's mainstreaming policy? We believe that a pragmatic approach must be taken, whereby each child's circumstances are considered on a case-by-case basis and the interests of the child are always paramount.

**Peter Peacock:** I am grateful to Lord James Douglas-Hamilton for giving way. Indeed, it was beneficial that he did not give way until now, because I agree entirely with his last two sentences. There is not necessarily a direct correlation between a presumption to mainstream when that is suitable for the child and a discontinuation of special schools. I believe that there should be a wide spectrum of provision, and the special schools will always have a place in Scottish education. I ask Lord James Douglas-Hamilton to accept my assurance that pragmatic decisions that are taken on the basis of the individual circumstances of the child will be at the forefront.

**Lord James Douglas-Hamilton:** In that case, certain changes should be made to the policy. My understanding is that funding for special schools is planned for only about seven years. Such schools should be put on a permanent basis, like all other schools in Scotland. I look forward to the minister

taking further action to follow up what he has just said. A great deal more needs to be done in this area to reassure those with special educational needs and their families.

The final issue that I will highlight, which is of particular relevance to the minister, is violent and disruptive behaviour in the classroom, which is probably the greatest problem that Scotland's schools face. It is therefore regrettable that, despite the fact that staff have been vocal in expressing their concerns, the minister has failed to get a grip on the problem. The most recent statistics that we have from the Executive reveal that a verbal or physical assault on a member of staff takes place every 12 minutes of the school day—a truly shameful statistic.

To our astonishment, the minister is no longer publishing such figures. Happily, the provisions of the Freedom of Information (Scotland) Act 2002 enable us to assess the up-to-date position. Having obtained and examined a selection of statistics, I can make the following significant revelations. In 2004-05, in Aberdeen alone there were 638 incidents of abuse of staff plus four cases of damage to property. In the same year in Fife, incidents of physical violence against staff totalled 378, alongside 204 verbal attacks and a further 224 combined verbal and physical attacks. In Moray, the number of physical assaults on staff rocketed from a still-dreadful 34 in 2004-05 to a staggering 188 last year. Even in leafy East Renfrewshire, in the most recent academic year there were 333 incidents of assault, the vast majority of which involved physical violence. Surely head teachers should have greater powers to exclude permanently the very small number of persistently disruptive pupils who are driving valued staff away from the profession and disrupting schools. I rest my case.

I move amendment S2M-4755.2, to leave out from "welcomes" to end and insert:

"believes that the Scottish Executive is failing too many valued members of school staff in that incidences of physical and verbal assault remain commonplace in Scottish classrooms to the extent that, according to the Educational Institute of Scotland, "Teachers continue to regard the matter of indiscipline and how to solve it as their number one priority"; believes that special schools should have an important and secure place in Scotland's educational system and should not be under threat; believes that the Executive is failing parents by abolishing tried and tested school boards against the overwhelming weight of public opinion, and therefore calls on the Executive to reconsider its decision to abolish school boards, give stronger support to special schools and ensure that head teachers have the authority to permanently exclude persistently disruptive pupils".

09:49

**Iain Smith (North East Fife) (LD):** I am pleased to be able to contribute to this important debate on

an area that it appears all parties recognise is the top priority for this Parliament.

**David McLetchie:** Another priority?

**Iain Smith:** Lord James Douglas-Hamilton recognised that, but David McLetchie does not. The Liberal Democrats have always seen education as a key priority.

**Lord James Douglas-Hamilton:** My honourable friend David McLetchie is perfectly entitled to probe the Administration on its intentions so that it can clarify exactly what it means.

**Iain Smith:** I look forward to hearing David McLetchie's speech later, which I am sure will hark back to the halcyon days of the 1980s, as the Conservative amendment does.

The Liberal Democrats want education to move forward, not backward. In Scotland, unlike at Westminster, we will work to improve the experience for all pupils in our schools, rather than push reform for the few.

Our education system is distinctive and excellent and has continued to build on its successes since devolution. Attainment levels are higher, class sizes are smaller and more of our young people leave school to go on to further or higher education. The next challenge for Scotland will be to release the hidden talent of young people—particularly those not in education, employment or training—by taking preventive measures, starting at the earliest possible age, as soon as they come into education. We also want to find ways to reach out to those who have already left school but who are not in education, employment or training. Politicians must stop demonising young people and start prioritising them.

We have made significant progress in seven years in Scotland. Primary class sizes have fallen every year since devolution. Rather than cut the number of teachers as rolls have fallen, we have increased the number—3,000 more teachers have entered our schools. At least 75,000 pupils have benefited from investment in improving school accommodation and facilities. The number of pupils with high attainment levels on leaving school has increased since 2001.

Her Majesty's Inspectorate of Education found that 93 to 95 per cent of primary schools and 94 per cent of secondary schools have either a good or very good standard of teaching.

We acknowledge the importance of having a healthy diet at a young age: free fresh fruit is available to all children in primary 1 and primary 2. Free fresh water has been made available to almost all publicly funded schools. New nutritional standards for school meals are in place and all

Scottish schools are to become health-promoting schools.

**Fiona Hyslop:** Bearing in mind the points that the Conservatives made about behaviour issues, does Iain Smith acknowledge that the availability of free school meals in the primary years can help to tackle some behavioural issues? There are concerns that low levels of nutrition for children have a negative impact on behaviour.

**Iain Smith:** The arguments for free school meals have been greatly exaggerated. For example, the take-up of free school meals in secondary schools by those who are entitled to them is not great. There is no guarantee that the provision of free school meals would result in healthy eating. We also have to bear in mind the fact that school meals are only one of the meals that children eat each day and that they represent only about a fifth of the meals that they eat in the entire year. It is difficult to argue that providing free school meals would, in itself, result in improved nutritional standards. We have to do more than that to ensure that children eat healthily throughout their lives, not just concentrate on the one meal that they might have at school.

We have provided a free nursery place to all three and four-year-olds and have a strong record on access to pre-school education, with 94 per cent of under-fives enrolled in education in Scotland, which is ahead of both the United Kingdom and international averages.

In 2005-06 we invested £4 million to guarantee the opportunity for primary 6 and 7 pupils to learn a modern European language, and there has been an uptake of 96 per cent in primary 6 and 98 per cent in primary 7.

Internationally, only three countries are significantly ahead of Scotland in terms of maths, reading and science literacy. The CBI failed to recognise that in its report, which no doubt will come up later in the debate. From 1999 to 2005 the level of attainment in reading, writing and mathematics at both primary and secondary levels increased significantly, which, again, the CBI failed to recognise.

Primary school class sizes are at an average of just 23 pupils. In 2005-06 an all-time-low pupil teacher ratio of 17:1 was achieved in Scotland. In 2004-05—the latest year for which UK comparisons are available—the Scottish ratio of 17.6 pupils per teacher was lower than the UK average of 21.8 pupils per teacher. We are making significant progress in cutting class sizes and improving pupil teacher ratios.

We need more new teachers to cut class sizes further. We have provided for that by increasing the intake for the professional graduate diploma in education by 110 per cent between 2003 and

2005. The PGDE intake for maths—an area where we have a significant shortage of teachers—increased by 75 per cent and the intake for English increased by 100 per cent between 2003 and 2005.

A greater proportion of pupils are entering higher education—52 per cent of our pupils enter higher education, compared with 43 per cent in England. There has been real, positive progress in education in Scotland under this Liberal Democrat-Labour partnership Government.

Liberal Democrats want to see further improvements. We cannot be complacent. We want to improve the quality and relevance of the range of education with curriculum reforms. That is particularly important in dealing with those who are not in education, employment or training—or NEETs, as they have become fashionably known.

We need to ensure that the three-to-18 curriculum reforms are progressed with speed and that they come into effect. We can see from the performance charts of achievements in reading and writing that there are points in children's educational career where they do not progress as quickly as they should, and in some cases go backward. The three-to-18 curriculum reform is crucial in that regard.

We also recognise that we need to invest in the pre-school group. By the time those children get to the age of 14 or 16, it is too late to try to address their problems. We have to start making progress now with those who are entering the education system at the age of three or even younger. Fiona Hyslop recognised that in her speech.

We want to raise pupil attainment levels by having smaller classes, more teachers and more support staff. We want to improve the health and, therefore, the performance of pupils by being leaders in the provision of healthy school meals and by encouraging physical activities. The Liberal Democrats would create a responsive pupil-centred education system with improved additional support for learning where required. We will give parents a greater role in their children's schooling, unlike the Conservatives, who want to hark back to the school boards, which were inappropriate when they were introduced in the 1980s and are even more inappropriate now. Those have been replaced and we will see improved parental involvement in our schools as a result.

Finally, we have improved learning by investing £2 billion in new and better schools and, through our enterprise in education programme, we have recaptured Scotland's entrepreneurial spirit by giving children a sense of where creative ideas can take them.

The Liberal Democrats want there to be further improvements in our education system. I welcome the motion.

09:56

**Robin Harper (Lothians) (Green):** I return to the concern that I have expressed in the chamber on many occasions during the past seven years, which is about whether doing things better is enough. In the past seven years, regardless of the party that has been speaking, the education debate has been about doing things better. I have no doubt about the commitment of all parties in the chamber to doing things better in Scottish education. I am convinced of the commitment of the Minister for Education and Young People and his team to improving schools and lowering class sizes, and I sympathise with the SNP amendment, as there are still concerns about all the areas that Fiona Hyslop talked about. However, there is a concern that we are becoming obsessed with the idea that our education system should be globally competitive, and that that is leading the entire education debate. We should be doing better things as well as doing things better. I ask whether our education system and the curriculum have got out of shape and whether the Executive should be addressing that.

**Peter Peacock:** I understand that Robin Harper is trying to make a genuine and serious point, but I would like to make an equally genuine and serious point. When we talk about global competitiveness, we are trying to recognise that the world that our young people will enter is dramatically different from the world that he and I entered. They will have to compete for jobs with people from across the globe in a way that we did not. However, those jobs will be to do with the environment as well as traditional manufacturing and so on. It is not just about economic competitiveness, although that is a major dimension; it is also about ensuring that our young people can compete and make a positive global contribution in any sphere of human activity.

**Robin Harper:** I accept what the minister says absolutely. I am not questioning the idea that we should be globally competitive; I am questioning our obsession with the idea that that is the only aspect of education that we should debate in this chamber. There are other, vital things that we should be debating in relation to education. I am going to talk about something that will equip our young people to be competitive across the board in an ever-changing world. Simply being literate and numerate and knowing their science will not be enough to equip them in that way.

Lord James Douglas-Hamilton talked about violence in schools. There is plenty of research that shows that those schools that have good

music and drama education and give young people plenty of opportunities to develop their creative abilities are the schools that have the lowest levels of violence and disturbance. That is the way forward. What has been suggested so far today is a patch to cope with things that would not be happening if we addressed the shape of the curriculum in our schools and saw education not only as a process but as an experience.

Are we simply preparing children to compete in the world or do we want to have a child-centred education system that prepares children to enjoy life and their time in school? The experience of school of a high proportion of our children is positive. However, Frank Pignatelli gave me a survey that showed that although for 50 per cent of our children the experience was reasonable, for 25 per cent of our children the experience was not a good one, and for another 10 per cent of our children the experience was negative. Some children simply could not be traced in the survey.

Today, I call on the Executive to place greater emphasis on the need to provide children and young people with opportunities in school to develop all seven of the intelligences that have been identified by Howard Gardner, the educational philosopher who is visiting Parliament today. What I am saying is occasioned not only by his visit but by the fact that I think we should work to create a truly liberal, child-centred education system in Scotland as well as an internationally competitive system.

The more I look at the curriculum for excellence, the more I think that, while it is a good start, it is a framework. The minister mentioned that there are problems with leadership in some schools. However, the curriculum for excellence is a buy-in system; it is not being pushed by the Executive for every school. The Executive has decided to take a more gentle approach and suggest that people should buy into it. I wonder at what point the Executive will move towards saying that everybody has to buy into it tomorrow.

I want to contrast what I describe as the functional view of what education should be doing with a view that was expressed by Sheena Wellington in the magazine *View* in spring last year. She would like to see

“our children, our hope for the future, go to well equipped schools where the basic skills are thoroughly taught and where participation in the widest variety of arts and sports is taken for granted. A school where artists of all kinds are welcome and part of the natural order of things, where Scotland’s music, song, poetry, history and literature are at the core of a wide, healthy and informed view of the world and where confidence and creativity are encouraged.”

That is the kind of view of education that I would like the Executive to stress increasingly, now that

we are on the road towards making certain basic improvements.

In schools at the moment, the pressures of the new curriculum and the introduction of new subjects such as media studies and entrepreneurship are such that cuts must be made and, in certain schools that I know of, the first departments that are going to receive cuts are art and music. Primary schools are still desperately short of visiting teachers in drama, music and art.

I must finish by asking the Executive whether it is monitoring carefully the provision of art, drama, music and dance in secondary schools and the number of visiting teachers of art, music and drama in primary schools. The last time I asked a question on this subject I found that, in the whole of Scotland, only a couple more music teachers had been employed. That is not the kind of progress that I would like to see in those vital subjects for the full development of our young children’s capabilities and possibilities.

10:05

**Mr Kenneth Macintosh (Eastwood) (Lab):**

Three weeks ago, my daughter Catriona, along with thousands of other five-year-olds around the country, put on a new school uniform, shouldered a new schoolbag and slipped out the door for an eventful day in her life—her first day at school. She was accompanied by her mum and dad, older brother, younger siblings and, of course, there was a proliferation of digital cameras flashing at the school steps. I suspect that it was her mum who was the most emotional about her young child going off to school.

Two years at the attached nursery had helped Catriona to prepare and to climb the steps without a tear or a sigh, but it was a day of mixed emotions for us and for all the parents. It was a day of pride and happiness, but also a day of anxiety. For the first time in the child’s life, the parents are letting go; they are not in control any more. As the child steps through the door, the parents are locked out, because they are handing the child over for someone else to look after them. However, my worries and my anxiety about how she would get on were tempered by my knowledge of the school and of what she would face.

The school has just received a brand new extension and new facilities, such as an information technology suite. It has a dynamic, new, young head teacher—the youngest in Scotland, I believe—and far more staff than ever before. It is still a small single-stream primary school, but it now has more teachers, more classroom assistants, more probationers and more support staff—people who were not there six or

seven years ago. It is a school with active parental involvement and a family learning co-ordinator. It reaches out to the wider community and revels in its pupils' performances. It celebrates their achievements in the classroom, in sport, in drama and in music.

I felt confident and proud not only of my daughter but of what we have contributed to the school and what we have achieved here, in the Scottish Parliament and the Scottish Government, to improve schools throughout the country.

A recent publication gave the teacher numbers throughout Scotland during the past decade. The figures could not be starker. In 1997 there were 877 teachers in East Renfrewshire. In 2005 there were 1,141. That means that there have been more than 260 new teachers in the space of eight years, on top of the 877 who were already there. That does not even take into account the hundreds of classroom assistant posts that did not exist before the Labour Government came into power in 1997 or the Scottish Executive came into power in 1999.

**Robin Harper:** Does the member have a breakdown of those figures? How many of those teachers are music, dance or drama teachers?

**Mr Macintosh:** I do not have that breakdown, although I am sure that the local authority could provide it. However, as a parent as well as the MSP for the area, I have been into the schools and seen for myself, in each of the classes, where the increased staffing is making a difference. That includes extra music and drama teaching. I will come on to one of those subjects later.

In the relatively short time since we were elected, I have seen huge new school extensions and rebuilding programmes at St Ninian's high school, Eastwood high school, Netherlee primary school and the new Mearns primary school. In the past three weeks I have seen the pupils of Carlibar primary school in Barrhead go into their brand new school and 1,500 or so pupils at Williamwood high school—one of the best-performing secondary schools in Scotland—finally enjoy brand new, state-of-the-art buildings and facilities that match their level of achievement.

**Richard Lochhead (Moray) (SNP):** Good school.

**Mr Macintosh:** I know that it is Mr Lochhead's old school. I am delighted to hear that it has gone from strength to strength since he left.

We now have better schools, more teachers, better-paid teachers and happier teachers. That is our legacy to the next generation of Scottish families, but there is so much more to do. We need to continue the school building programme and renew and renovate the buildings that are still

not up to scratch. We need to work hard to improve the vocational options that are on offer to our young people and ensure that they are not second best to the academic route. We need to commit to reducing class sizes still further. We particularly need to reach out to the group of young people who are still missing out on everything that our schools have to offer and are therefore missing out on fulfilling their potential. They are a loss to our economy and our country.

**Fiona Hyslop:** I thank the member for giving us a tour of East Renfrewshire. I think that East Renfrewshire is similar to other areas, such as West Lothian, where I am from, in that there has been an increase in population and in demand on schools and they have had to respond. Perhaps in East Renfrewshire there has been a better way of dealing with class sizes, but in West Lothian there are still primary school children sitting in classes of 33. Does the member agree that one of the challenges that we face is looking at the council areas within Scotland and ensuring that there is equity between them, so that every child benefits from class-size reductions, particularly in areas such as East Renfrewshire and West Lothian?

**Mr Macintosh:** I whole-heartedly agree with Ms Hyslop on that point. I mentioned class sizes, which should be our priority as we go into the new session of Parliament. In areas that have expanding populations and good schools, we have to work hard to ensure that classes do not fill up to their maximum size all the time.

We have a clear choice before us. Indeed, today's debate could not be clearer. We have a choice between a party that has—and would—put education first and an Opposition that, frankly, has little to say and certainly a lot to prove in terms of how it would deliver on its promises. I say to Lord James that I am intrigued by the Tory amendment, because it does not mention passports to schools. Is that because the Tories have finally dropped that flagship policy? That policy, more than any other, symbolises their commitment to privilege for the few at the expense of education for the many.

Of course, if the Tories would give us passports to schools, the nationalists would give us passports to England. Their priority is not education or schools but border controls. Independence would not deliver one extra teacher, one extra classroom assistant or one extra school, but maybe there is something more in the SNP amendment. There is the replacement of public-private partnership funding, but what on earth does this dogmatic obsession with PPP have to do with improving our schools? In East Renfrewshire we have £50 million-worth of new facilities for young people, but the SNP would rather put its ideological fixation and its dogma first than put education first.

What else is there in the nationalists' amendment? Well, there is a half-hearted commitment to free school meals in the early years, but that commitment would do nothing to improve nutrition or tackle obesity. It is a commitment to use the taxes that are paid by the school cleaners or the school janitor in my school to give my kids a free lunch. Pardon me if that is not my priority. I contrast that with what is already happening in East Renfrewshire, where our Labour-led coalition with the Lib Dems has found the resources to provide lunches throughout the school holidays for those who qualify for free school meals. That is a help and a real benefit for them when they will most benefit.

The SNP amendment is a mishmash. It is an attempt at populism that is underpinned—and undermined—by the central theme of turning our back on Britain and cutting Scotland adrift. What does this debate mean for our young people? Ten years ago, pupils at Barrhead high school were denied the opportunity to sit five highers in their fifth year. Young people were denied the opportunity to fulfil their potential and their ambitions were capped. Not only are they now given the highest targets, but the schools of ambition programme has supplied the school with a drama department that enables young people to build self-confidence and self-esteem through creativity and expression. A young child with dyslexia now has the chance to have that condition picked up and their needs addressed.

I am not saying that everything is perfect. The parliamentary question that I will ask later today on the shortage of speech and language therapists reveals my concern about just one area that needs to be addressed. However, the choice is clear—education for the few at the expense of the many, independence first, or education first. I know where my choice lies.

10:13

**Mr Andrew Welsh (Angus) (SNP):** Ken Macintosh started his speech by describing taking his daughter for her first day at school; every parent will identify absolutely with that. I did it, and it nearly broke me up. Irrespective of politics, the fact that all parents can feel confident about sending their children to primary schools in Scotland is a tribute to our national primary school system, which is renowned for its trained and qualified staff and the work that they do.

However, there is a need for Government policy to fit into a wider strategic framework that takes into account the interlocking nature of overall Government action. The lack of strategic vision by the Executive is not limited to justice, the economy and rural Scotland, but can also be seen in its education policies. For example, what is the

relationship between ill-discipline in our schools and the Executive's community and justice strategies? Is it a coincidence that ill-discipline in schools is at an all-time high while communities are eroding and crime is a major fear within the wider society that is served by our school system?

I was shocked to be told that, sadly, some of the worst cases of classroom violence are in primary schools and involve some very young pupils, so the other side of the coin is that we must protect our teachers. In many ways, we ask Scotland's teachers to uphold standards that have now been abandoned by society as a whole. The answer to violence in general rests with the Government: ultimately, the problem will be solved only within the context of that wider society but, in the meantime, teachers in the front line have to be given more protection from violence and intimidation whenever they occur during their work, on behalf of wider society.

The traditional Scots values of politeness and consideration for others, as nurtured by our education system, are worth protecting and preserving. If our schools are to be in the front line of raising standards, they have to be given the necessary tools, resources and support. Change for the better can take place only within the context of Government policies that are designed to protect, defend and encourage the best of conduct—not the worst. Schools and education cannot be isolated from their wider communities. Rather than deny the existence of problems, the minister should state what specific measures he intends to introduce to protect and assist teachers when those problems arise. What is he doing to eradicate or minimise the blight of indiscipline within our education system?

Disruptive behaviour is the enemy of education. It damages the learning experience of many pupils and has to be tackled by a wide range of measures, including cutting class sizes, providing adequate specialist support and examining sensible measures to isolate the problems. More positively, we also have to create other educational options for pupils who have behavioural difficulties.

**Robert Brown:** I accept that the issues are multifaceted, but does Andrew Welsh accept that the most significant contribution to motivation and tackling indiscipline in schools will lie in the quality of leadership and in the values that individual schools exhibit at the top and then down through the teaching staff to the classroom?

**Mr Welsh:** Absolutely—I draw attention to the intervention that I made earlier. The problems of leadership are really in secondary schools; in primary schools the new system that was introduced under McCrone works, and has—I think—been accepted. The minister is right to say

that we must allow our head teachers to exercise a leadership role. However, a school means the whole school—the head teachers and all the staff working together.

The SNP amendment calls specifically for improvement in some of the basics of our education system. All children should have the opportunity to be taught by a nursery teacher in a nursery school environment. Also, more powers should be given to head teachers to determine educational spend. Mainstreaming needs should be identified and supported properly, and smaller class sizes should actually be delivered.

Our objective is to make the Scottish school system an example to the rest of the world, and to set international standards in education. Our ancestors did so and it is an essential and fundamental modern-day challenge for us. As it was in the past, so it is now: education and the thirst for knowledge and understanding are the keys to Scotland's future, in a system that is egalitarian—available to all irrespective of their background—and designed to bring each young person on to the best of his or her ability.

It is essential that we encourage schools to have specialisms within a broad curriculum, rather than encourage specialist schools. There should be an end to any talk of abolishing the teaching of history and modern studies, in which I will declare an interest in that I taught both in secondary school. Only by helping our young people to understand the past can we equip them to face the future. We must give them a sound understanding of how our society and democratic government function. A fundamental role of any education system is to give children the tools that they need to be fully functioning members of society, so that they can make their way in the world and take part in knowledgeable debate about the future of our nation. Only by knowing and understanding Scotland's past will our young people be equipped to take part in a rational and well-balanced discussion on Scotland's future.

Scotland's teachers must be given the best environment for their skills. I congratulate Angus Council on its steady and consistent programme of new, upgraded and modernised schools and on its investment in technology. Again, I declare an interest: I have declared many of those schools open.

I encourage the minister to harness modern technology and to unleash imprisoned ability through positive investment in such technology to meet specialist needs. I have seen at first hand how one young person with cerebral palsy—unable to speak and apparently unintelligent—had her whole life turned around through the use of modern computer and voice-box technology, which allowed her to move from a limited

existence to the achievement of a university degree. Her innate but hidden intelligence was freed by technology. Resources have to be found to give that small but important minority of youngsters the ability to live their lives to the full.

The motion contains a fundamental complacency. It talks about securing a place in education, employment or training for every 16 to 19-year-old, but Scotland has one of the highest rates of 16 to 19-year-olds who are not in education, employment or training. After seven years of power, the Government is failing to reach targets in class-size reduction and to reduce the number of unfilled teaching posts. It hides its failures in delays and promises that are based on so-called delivery after the next election.

The Government has thrown £2 billion at the McCrone settlement, but cracks are now appearing in the benefits that might be gained from the spending of that massive amount of money. Overstretched head teachers are being diverted from efficient leadership to class teaching and local authorities can foresee future funding problems. Scotland deserves better than that: after the next election and a change of Government, we will have the opportunity to do something positive about it.

10:21

**Murdo Fraser (Mid Scotland and Fife) (Con):** I congratulate Andrew Welsh on a generally well-informed and thought-provoking speech, although when he came out against schools developing specialisms, I wondered whether he was up to date with SNP policy.

I would like to address two specific points. The first is on the question of what makes a good school. At the end of last term, I had the privilege of being asked to be the guest speaker at the prizegiving at Webster's high school in Kirriemuir, in Angus Council's area. It was a real pleasure to join the happy, bright and well-turned-out youngsters who were receiving prizes in front of an audience full of proud parents and the wider school community—members of the school board, the school chaplains and others. If anyone went round the area and asked people whether they think the high school is a good school, the chances are that they would say, "Yes it is," because people have a favourable impression of the school. Webster's high school is not one of the largest schools in Scotland; it has a roll of 793 and it draws its pupils from a wide and diverse catchment area—a small town with a mixed society and a large rural hinterland. Pupils at the school have achieved good exam results. In higher results for 2004-05—the most recent year for which figures are available—the school came 33<sup>rd</sup> equal in Scotland and came top of all secondary schools in Angus.

However, there is more to a good school than academic results. An interesting thing about Webster's high school is that nearly 10 per cent of its total roll are pupils who live outwith the catchment area—pupils whose parents have exercised choice through placing requests in order to get their youngsters into the school. Why do parents choose to do that? Why do they choose to have their children travel that little bit further? It is not just about academic results—although they are important—but about the whole package that the school offers; its ethos, the standards that apply and the levels of discipline. At the core of that is leadership: the stamp that the head teacher puts on the school, which sets the tone for standards and discipline and sets out what is expected of pupils and members of staff.

If we are trying to improve our schools so that we have more good schools, we should seek to empower head teachers and extend their remit. It is not local authority officials sitting in council headquarters who make good schools or not-so-good schools; it is what happens within the schools and the leadership that is provided in them. If there is a lesson to be learned, it is that extending devolved school management further is the right thing to do.

**Fiona Hyslop:** I know of some schools in Linlithgow that are having difficulty in recruiting head teachers, and there has been a sharp reduction in the number of applications for head-teacher posts. Does Murdo Fraser agree that the Audit Committee and the Education Committee must take seriously the Audit Scotland report that highlighted some of the concerns about head teachers?

**Murdo Fraser:** Fiona Hyslop makes a very fair point. In every sphere of activity in the public sector, people are ever more burdened by bureaucracy and paperwork. I suspect that that might be a factor in discouraging some talented people from applying for management roles. We should do anything we can to make such positions more attractive, given their great importance to school leadership and to the quality of schools.

It is not just about head teachers. Good schools are partnerships, and the best schools are those in which the head teacher is supported by an active school board, with parents engaging with the school. For that reason, I believe that it is wrong for the Executive to scrap school boards: it is wrong for it to be replacing them with weaker parent councils, which will simply not have the same range of powers.

**Robert Brown:** Will Murdo Fraser accept that Parliament has spoken on that issue? The Scottish Schools (Parental Involvement) Act 2006 was passed. Would it not be far better for the Conservatives to involve themselves in trying to

make the new system a success? Everyone would accept that that is in the interests of parents. There are opportunities under the new system—let us take advantage of them.

**Murdo Fraser:** Parliament might have spoken on the issue, but it said the wrong thing. When the Executive consulted on the matter, out of 1,023 responses only 13 per cent were in favour of abolishing school boards. The Executive simply did not listen. It got it wrong, so we will continue to make our case.

**Iain Smith:** Will Murdo Fraser take an intervention?

**Murdo Fraser:** No, I will not take another intervention because time is getting short. I want to move on to talk about another subject in the time that is available to me: the question of city academies. In the past eight years or so, city academies have been developed throughout England. They provide a different style of education and a new start for those who are often challenged by traditional methods of education. We currently have 27 such academies in England.

Performance in city academies is lower than the national average. That is perhaps not surprising, however, because the youngsters who tend to be attracted to city academies are those who are not achieving particularly well in traditional schools. The important point is that the rate of improvement among pupils in city academies is higher than the national average for England. The reaction from parents and pupils in England to the academies has been extremely positive. Moreover, academies bring the opportunity for pupils to develop one or more specialisms, for example in science, arts, computing or engineering. They are attractive to pupils and to parents, and they are working to raise standards.

Scotland is, of course, a different country from England, with a different education system, but that does not mean to say that we should close our eyes to examples of good practice that work elsewhere. I urge the Scottish Executive to consider—even just as a pilot—establishing such an academy in Scotland. A city academy in Glasgow, for example, would provide a different style of state education, perhaps for pupils who struggle to perform under the current system. It would allow them to develop specialities, and would help to deal with the problems of NEETs—youngsters not in employment, education or training—to whom Andrew Welsh referred. We in Scotland have the worst record among Organisation for Economic Co-operation and Development countries for people aged between 16 and 19. Too many of those youngsters are being left behind at the moment. Surely we should be prepared to put dogma aside, to find out what

works elsewhere and to consider going down that road.

10:28

**Donald Gorrie (Central Scotland) (LD):** I am very happy to support the ministers in what they are trying to do in Scottish education. I would give the Scottish Executive a reasonably good mark—a beta plus or something like that. Education is a very difficult subject, and the Executive has made real progress, although there is a lot still to do, as the Executive recognises.

A lot of members' speeches have contained good points, which I will try not to recapitulate. I will focus on three other issues, all of which are issues in which education can help young people and communities, and in which young people and communities can help education. There should be two-way working, although that is often difficult to achieve in Government circles.

I will start with sport, in which some good things are happening. The active schools programme is good, but it works better in some areas than in others and it could be developed more. It is going in the right direction, however. The First Minister recently announced a very interesting proposal to provide much more football for secondary 1 and S2 pupils, which is very welcome.

There are specific things that the Minister for Education and Young People and the Deputy Minister for Education and Young People could do to help more. I am advised by those who know about such things that, in the new drive towards a United Kingdom sports coaching arrangement, the school education people in England are paying for people to get through the important bottom or basic level. That costs £300 or £400, which is a lot more than under the existing system. In Scotland, we are not doing that. I invite the ministers to talk to their colleagues and to ask them to ensure that we encourage people to become coaches, which would help schools and clubs. We are falling far behind European and other countries in that regard.

Another suggestion is to try to ensure that every primary school has a dedicated physical activity space—not necessarily a physical education space—that could be shared with the dining facilities or the school hall. If we are really to push physical activity of all sorts in primary schools, we need to ensure that proper space is provided. There is also a continuing issue around losing playing fields. I hope that ministers will play a strong part in ensuring that we do not lose playing fields unless a very much better substitute is to be provided nearby.

One area that we could develop is the provision of multisport centres in every community, by using

existing facilities and adding to them. In many cases, that would be at the local high school. In a smallish town, the high school is the best provider of facilities, so multisport centres for both young and old people could be developed by using the existing schools better and adding to them. All the sports would benefit from rubbing up against one another. The centres could double as cultural hubs, which would operate in the same way by bringing in all the local cultural organisations.

I know that there is the problem of ministers having to work with and through local councils, but it would be good if we could set up systems to make it easier for councils to do that work and for them to keep school facilities open without charging too much. At the moment, a lot of sports facilities, in schools and elsewhere, are closed when they should be open and they sometimes charge so much that individuals and clubs cannot afford to use them. I hope that the ministers can negotiate on that.

Moving on to the second issue, youth work has suffered from not being a statutory provision. I sometimes make speeches about our having too many laws, but if a council has to cut its budget, it cuts the non-statutory things first, so there is an argument for providing statutory youth work. We have to develop ways to involve young people more in making decisions and managing things. There are some very good projects around and we are making progress, but we need much more push and we need to recognise that young people are genuine citizens who should be partners in the provision of the sort of facilities they want.

It is a problem that, historically, teachers and youth workers have had a bit of suspicion of one other. We should try to break that down. There is also the problem that—whoever is to blame—many young people and adults who work with them feel that young people are demonised in the media. We have to get away from that—we have to publicise more and praise the good things that young people do, which are numerous, but which are ignored by the media. We need to push that far more.

We need sustained funding for youth work, whether we call it core funding or skeleton funding or something else—we can choose whatever part of the body we like—so that it can continue to be done successfully.

My third point is on outdoor education. Like youth work, it can make a huge contribution to educating individuals in becoming better people and in learning to get on with others, to judge whether or not to take risks and so on. There are Scottish centres that do that very well. Some councils could do more of it, but they are inhibited by ridiculous insurance rules. We could do much more to promote outdoor education. It is good in

its own right, and it is beneficial to young people as human beings.

In those three ways, we could create better adults, which is what we should be doing. They would not only know about Scottish history and how to count and speak a foreign language, but be able to interact better with other people, make a contribution to the Scotland of the future and live a much happier life.

I hope that the ministers will take some of those points on board.

10:35

**Scott Barrie (Dunfermline West) (Lab):** Yesterday, the First Minister said:

"high-quality learning and education have to be Scotland's strategy for the future."—[*Official Report*, 6 September 2006; c 27149.]

He is absolutely right, because without a first-class state education system, our youngsters will not be able to compete at the highest levels in an increasingly competitive global market.

There is no doubt that for the majority of Scottish school students, our state education system is currently providing a high standard of learning and is equipping them for life, work and continuing education beyond their school years. However, a minority continue to be failed by the current system. It is those youngsters on whom I wish to concentrate this morning.

We have heard several members identify leadership as being crucial in driving up standards in our schools. All of us who read the reports from Her Majesty's Inspectorate of Education on our local schools will see that good leadership and poor educational attainment never coincide, but poor leadership and poor educational attainment quite often do. If we are serious about ensuring that our schools are equipping the youngsters in education, it is crucial that we identify the issue of leadership.

It is not enough to give more power and responsibility to head teachers because, in a minority of our schools, it is the problem of head teachers that we need to address. It would be wrong to brush under the carpet the question whether all our head teachers have been well equipped and promoted adequately or are doing a good job. I hope that the Executive will take that difficult question on board.

I want to mention youngsters with social, educational and behavioural difficulties. Lord James Douglas-Hamilton identified the problem of indiscipline in our schools, and he seemed to have one solution: he called for head teachers to be given the power to exclude permanently the youngsters in question. Well, head teachers have

that power and can exclude permanently youngsters. The issue is not exclusion, but what we do with those youngsters when they are excluded.

**Lord James Douglas-Hamilton:** Is Scott Barrie aware that under the law as it stands head teachers do not have the power to exclude people from schools permanently? That power resides with the local authority, which is the burning source of grievance for many people who have to deal with persistently offending pupils.

**Scott Barrie:** That is not "the burning source". My point is not about excluding youngsters—it is about what we do with those youngsters if they cannot be accommodated within a mainstream school. Anyone who knows about human growth, development and behaviour recognises that the solution is not to isolate youngsters indefinitely, to take them away from the community in which they live and to expect them somehow then to be transformed into good members of society who can cope with the demands of living in communities. For too many of our youngsters, that has been their experience. They were excluded from school, taken away from mainstream education and given a poor education outcome. Then, somehow or other, they were expected to be well-adjusted members of society at 16. It did not, and will not, work.

**Fiona Hyslop:** I very much agree with Scott Barrie's comments. Is he aware of the example of Bathgate academy, which has kept such youngsters in school and has provided a dedicated teacher to help to build stability and responsibility within a healthy living environment using physical activity and diet? Projects such as that, which have been piloted and proved to work, are exactly what we need to look for across Scotland.

**Scott Barrie:** I must confess that I do not know what happens in Bathgate academy—I am sure that Fiona Hyslop understands why. However, her points are salient to the debate. She is right that if we do not take an holistic approach, but instead just see troublesome, difficult and undisciplined pupils as a problem to be removed and ignored, we will not resolve the problem.

**Lord James Douglas-Hamilton** rose—

**Scott Barrie:** If Lord James will forgive me, I will move on.

We also know that youngsters who have social, educational and behavioural difficulties have often experienced other misfortunes in their lives and might be in the looked-after children system. We know that young people who are accommodated in residential schools have possibly the worst experience of anyone in our education system. The educational achievements of looked-after

children are poor, and for those who are looked after and accommodated away from home in a residential school, they are almost non-existent. It is not enough to identify a problem and then to remove it in order to deal with it. We have to be very careful about what we suggest and do.

So, what should we do? I agree with the principle of mainstreaming. It is important to accommodate youngsters in our schools if we can, and not to exclude them permanently. Fiona Hyslop identified what was happening in schools in her area and throughout Scotland. We should give additional support to ensure that those youngsters can be kept in school. Rosemary Byrne may speak later, and I know her from her previous experience in the education system. I am sure that she will want to talk about that, although from previous debates I know that I will agree with a lot of what she has to say.

We must be clear about providing dedicated teachers to give extra support to youngsters to ensure that they stay in the education system. If we can do that, not only will the standards that have been driven up for the vast majority of youngsters in our education system continue to improve, but standards will improve for the very small minority whom the education system is failing. We will all be better off for that.

10:41

**Ms Rosemary Byrne (South of Scotland) (Sol):** I welcome the debate. I think that we have had diverse input from many members, hitting on salient points that are important for the future of our children and young people.

I agree that education is the key to Scotland's future and the future of our children and young people. We need well-rounded children coming out of our education system with strong self-esteem and confidence. We need young people who have had the chance of an education that is the same for all of them. Therein lies part of the problem: there is no equality of provision across Scotland.

Let us take as an example the first day at school, which Ken Macintosh described so well when talking about his young daughter. The first day for many young children will be in a primary 1 class of 18, 19 or 20 children. For others, however, it will be in a primary 1 class of 28 or 29 children. That is happening in towns throughout Scotland. Parents have come into my office weeping at the fact that their child is going to a school that has a big roll and having to sit in a huge class. Where is the equality of start for those young people? Where is the opportunity for those young people to have the same start in education? It does not exist.

We need a national standard for class sizes. It is not good enough for the Minister for Education and Young People to tell us continually that the averages are falling. I believe him, and I also believe that the retention and recruitment of teachers have improved. I do not have an axe to grind on that. The problem is that the standards are not equal across local authorities. We need to set a standard and ensure that there are no more than 20 in any class and no more than 15 in practical classes and composite classes. Then we could start to build the vision that many members have talked about today.

Robin Harper talked about the seven intelligences. We need teachers to be well equipped and able to deal with the situation in classes. We have heard about one-to-one contact and meeting children's individual needs. How do teachers meet a child's individual needs if the child is sitting in a class of 30? That is not possible in today's society. Children come into school with different baggage and backgrounds. Each one comes as an individual and with a different starting point. We must consider that and start a debate on it. Fiona Hyslop talked about the problem and I am unhappy that more members did not talk about it. It is extremely important and is also the key to inclusion.

Many interesting comments have been made about inclusion. I think that we all agree that we are looking for an inclusive education—that is the major aim. However, I agree with Lord James Douglas-Hamilton that we cannot close special schools and give parents no choice. Some children will not fit; one size does not fit all. However, if we reduce class sizes, we will move close to being able to include most of our children in a good and equal education throughout the country.

Having smaller classes would also improve the situation for children with social, emotional and behavioural difficulties. It would not remove such difficulties, but it would mean that teachers could give those children one-to-one attention with the back-up of a strong team of additional support teachers who are well trained and well qualified. Provision should be equal throughout the country. At present, for example, the systems for assessing dyslexia in some areas are diabolical but in other areas represent first-class good practice.

I attended the cross-party group on dyslexia's annual general meeting the other day. The group hears from parents and professionals and is putting together a database of the different practices among local authorities, which makes extremely interesting reading. I have seen assessments that were given to parents that can barely be read; they are computer printouts that were produced by someone who was not trained.

On the other hand, some local authorities produce first-class assessments. We need a national standard. Why are children with dyspraxia identified and given appropriate education in some areas whereas, in other areas, a mother may still be trying to obtain an assessment when her child is entering secondary 1? Such situations occur; they show that the system is unequal and unfair.

Some parents of children with autistic spectrum disorder are educating their children at home because they feel that no local authority place is appropriate for their children. In some circumstances, it is appropriate for young people to attend independent special schools, but local authorities will not pay for that, which means inequality again.

Huge inequality is involved when league tables are published. We know that such tables were ended, but schools and local authorities are releasing such information to the press. That is being done in Edinburgh and elsewhere. Placing requests for schools are being made, but the children of parents who do not have the wherewithal to pay fares or the ability or knowledge to work through the system are being left in schools in deprived areas that do not have a mixed catchment. That is unequal and people are voting with their feet.

I spoke to a group of 11-year-olds who just moved into primary 7 last week. Those children are starting to worry about the secondary school that they should go to, because they know that the secondary school for which they are zoned received a bad HMIE report. Eleven-year-olds are aware of that and are worrying about where they want to go when they should be focusing on enjoying their education.

I agree totally with what Donald Gorrie said about youth workers, opening up our schools and providing access to sport, drama and music, to which Robin Harper also referred. That is about the rounded pupil and equality of opportunity, but such equality does not exist. At some schools, no drama is taught, whereas other schools have vibrant drama departments. We should examine and audit all that. We should move on and take on board the good points that have been made in the debate. The significant point is that we should examine class sizes and set a national standard.

10:49

**Richard Lochhead (Moray) (SNP):** One of the most enjoyable parts of being an MSP is getting out and about in our constituencies and visiting local primary schools and high schools. I certainly feel that in Moray. I will talk about the rural dimension, because I often visit rural schools in Moray. It is fantastic to speak to children, who

always take a great interest in our jobs and particularly in matters such as how much we are paid; to meet teachers and see them in their workplaces; and to learn about schools and visit the school estate. That is humbling, because we see fantastic dedication and professionalism and we see children taking a great interest in their education.

The First Minister has said in today's press that he wants Scotland to have the best education system in the world by 2020. One of my concerns is to ensure that many of our rural schools are still alive and kicking in 2020. In the Moray Council area, we have had a major campaign in the past few years to save 21 local primary schools, most of which are in my constituency. I am thankful that the campaign appears to have succeeded in the main. The most recent outcome of the council's review was that the closure of rural schools should be a last resort, but the council will still start a two-stage process when a school roll falls below 60 per cent of capacity. That is a controversial issue, to which I will return.

It is important to consider rural schools not in isolation but as part of the local community and in the context of rural development. First and foremost, we must ensure that rural schools deliver a first-class education. Rural schools—particularly in Moray, but also elsewhere in rural Scotland, I am sure—tend to deliver a first-class education. We must ensure that we have the benefits of educating children in their own communities, which is another reason why rural schools are important. Rural schools also tend to fulfil an important social and economic role in our communities.

Rural schools are at the heart of communities. If I go to Portgordon, Portknockie, Alves or Glenlivet primary school or any other smaller school in my constituency, I cannot imagine the community that it serves without its local school. We must bear it in mind that many such communities have lost their post offices, local shops and banks, for example. If they lose their schools, they will no longer view themselves as communities. It is essential for the Parliament to prevent our rural communities from simply turning into retirement communities, by ensuring that we have vibrant local schools.

It is important to consider the future of rural schools in the context of rural development because we should gear our rural policy towards sustaining communities through sustaining local community schools. If young families want to move into an area, their first interest is whether the area has a local school. The demographic trends in rural Scotland and particularly in Moray are towards an aging population, with young people tending to leave and live elsewhere. Given that,

we must use every measure to attract and retain young families, which means that we must retain local schools.

Rural Scotland has an affordable housing crisis. As part of housing policy, why do we not consider building some of the desperately required houses in communities with schools that have spare capacity? That would help to maintain rural schools' viability. It is a pity that Ross Finnie, the Minister for Environment and Rural Development, is not present. It is important for Peter Peacock to work closely with him on maintaining the viability of rural communities.

Another way of ensuring that our schools are viable is to find other roles for them, which was a theme that emerged from the recent campaign to save primary schools in Moray. Grampian police are considering whether to open police offices in rural schools. That is an excellent idea that represents one way of generating extra income and using spare capacity in the school estate. The Minister for Education and Young People should encourage other public authorities to base themselves in rural schools with spare capacity when appropriate. We should also hand a greater role to communities that want to use spare capacity for their own purposes. If a village hall does not exist, a community can of course use a rural school. Our rural schools can have a wider social remit.

I will touch on the controversial threshold of 60 per cent of capacity that Moray Council has set as the trigger for reviewing a rural school's future. The 60 per cent threshold simply does not make sense and has no credibility. If we applied it in other walks of life, our local buses would not run, because they might not operate at more than 60 per cent of capacity at a particular time, and ministerial cars would not be used, because ministers probably do not use them for 60 per cent of the time.

Moray Council's threshold is not credible and should be scrapped. Just about every submission to the council's recent consultation argued against using the 60 per cent threshold to trigger a review of a school's future. In a recent parliamentary answer to me, the minister suggested that he thinks that the 60 per cent threshold has no value whatever. I urge him to write to Moray Council to make that clear again, because it is keeping the 60 per cent trigger in its current policy. That threshold must be scrapped to maintain the security and long-term future of many of our rural schools.

The final point that I will make before I sit down concerns the reference in the motion to the importance of delivering education for our 16 to 19-year-olds. That is a particularly important point for rural areas, where more than two thirds of

young people have to leave home to find work or education in urban Scotland. If we want to retain young families in rural Scotland, we need to deliver those education opportunities in our rural communities. I hope that the minister will address that point.

I hope that all party manifestos will include a commitment to protect our rural schools.

10:55

**Mr Frank McAveety (Glasgow Shettleston (Lab)):** Like many members, I welcome the fact that the first substantial parliamentary debate, after yesterday's state of the nation address by the First Minister, should be on education first. Several members have touched on their experiences of taking their youngsters back to school for the new school term. The wistful reminiscences of my colleague Ken Macintosh are in marked contrast to my own experience. I got a monosyllabic grunt from my 14-year-old son as I dropped him off. My daughter, who clearly has me sussed, asked me to drop her off 50yd from the school in case I embarrassed her in front of her friends. That is exactly what the rest of the family tell me any time that I transport them anywhere else.

One good thing about today's debate is that, as a first principle, all members in the chamber share the commitment and belief that education is the most critical investment that we as political representatives at different levels of government—both here in the Parliament and in local government—can make. We need to have a partnership with individuals and communities if we are to ensure that education is, to recall a phrase from the 19<sup>th</sup> century, a way in which people can achieve self-improvement. That ethos of self-improvement has been touched on both in the Conservatives' analysis, which might be termed as coming from the political right, and in the position put forward by SNP members, who referred to the foundation of the democratic intellect. What underpins both positions is the belief that school and education can, if they are well delivered, make a genuine difference to an individual's opportunities in life. I hope that the young people in the public gallery who are watching the debate will recognise that education is a route for self-improvement and that they, too, must contribute to that.

Although we can all unite round that first principle, we obviously have different views on how we should organise, deliver and sustain education provision. Much of that difference is determined by the values that we each bring with us, both as individuals and as representatives of different political parties or of none. The values that have inspired me over the years are a combination of my Labour and socialist values, my

sense of Scottishness and my understanding and experience, which was sometimes positive and sometimes negative—depending on who was in charge of discipline in a given week—of faith-based learning and of a values-driven school ethos. Those values have certainly had an impact on how I believe education can best be delivered. Those values and experiences that I start from, as well as several years' experience as a secondary school teacher in the east end of Glasgow, have influenced and infuse what I will say.

I recognise that the turbulent times of the 1980s, which I experienced as a teacher but which many went through as students, were a period of unrest in which there was not only uncertainty in staffrooms about the role of education in modern Scotland—which still features as a theme in newspaper columns today—but a feeling that the very ethos of Scottish education was under threat from the Conservative Administration. Many Conservatives will privately concede that one reason why their vote diminished in Scotland was that they did not buy into the broad ethos of, and commitment to, Scottish education. Perhaps some Tories have learned that lesson, but I am not convinced that the Conservative party as a whole has done so. However, I hope that the Conservatives will listen carefully and accept that we have a set of values that are about community and individual aspiration. If the Conservatives could pull those two aspirations together, they might be more in tune with what the people of Scotland want.

The Conservatives' position was exemplified by the school boards legislation, to which some Conservatives have wistfully referred this morning. Although school boards were introduced for the purpose of enabling schools to opt out of the state sector, the people who were involved in boards eventually rejected that central tenet. When asked, parents said that they did not necessarily want to go down that route of school improvement. That was the real test, and all of us should learn from that.

Murdo Fraser touched on the importance of leadership, which is a theme that I want to amplify in the remainder of my remarks. This may not be the best time for a Labour member to talk about the influence and importance of leadership but—to repeat an old phrase that my father used to say to me—out of adversity often comes strength. I hope that, out of the present adversity, strength will emerge. Leadership is of central importance in schools. I refer to leadership in the broadest sense, rather than just to the individual leadership that is provided in nursery, primary, and secondary schools by head teachers and in the further education sector. I want to talk about the contribution that leaders can make and the role that leadership plays. *[Interruption.]* The interference is not from my mobile phone.

I come back to my own experience—I said earlier that our experiences matter—by way of a response to what Murdo Fraser said about leadership and city academies and in response to the concerns about public-private partnerships that members of other Opposition parties have raised. Nearly 10 years ago, I sat in a room with Bruce Malone, who had recently been appointed as head teacher of St Andrew's secondary school. As people who knew that part of Glasgow's east end very well, we had a discussion on the future of denominational school provision in the east end. Few would have said then that, within 10 years, the catchment areas of three of the toughest secondary schools in the whole of Scotland could be merged and that we could end up with a school leadership that improved achievement levels, demonstrated a commitment to working with the wider communities and received an HMIE report beyond anyone's wildest imagination. All of that has happened in a school estate that is as good today as it was when it was developed four or five years ago.

That experience demonstrates how those three themes can be pulled together. Without the public-private partnership commitment to investment in a secondary school, people would not have felt that there was a sense of commitment to the area. Clearly, there had been no such commitment for a long time. Without the leadership of that head teacher and without the commitment of the staff and wider community, that school would not have had those achievements. The HMIE report has given the east end of Glasgow a remarkable sense of confidence. All of that is because the Executive has created the context in which those things could flourish. I recognise that members have different views about the direction of education, but we should not jeopardise that commitment.

I conclude by referring to the CBI report. Prior to debates on education, the CBI has always commented on how education standards are falling. When I was tidying out a school cupboard in Holyrood secondary school in Glasgow about 12 years ago, a grammar primer came tumbling down on my head. The opening sentence in the book stated that the command of the English language and a basic grasp of the principles of English grammar are not what they should be in our schools. That book was published in 1951. My point is that generations often take that view about how the quality of contemporary education compares with that of the past. My belief is that many youngsters today are achieving well. However, as the First Minister mentioned, a section of pupils are not achieving anywhere near the level that they should attain. I believe that we should make those pupils our priority. If we did that, we would certainly improve the quality of

educational experience of pupils in the constituency that I represent.

The Executive has made substantial progress. There is still a lot more to do, but I would give the minister a pass rate.

11:03

**Stewart Stevenson (Banff and Buchan) (SNP):** The Executive's motion starts with the words:

"That the Parliament welcomes the priority given to improving education standards".

Really?

Members will understand the position that the SNP is coming from if they care to dip into the Scottish neighbourhood statistics and compare my constituency of Banff and Buchan with that of Motherwell and Wishaw. It is interesting that the average tariff score for all pupils on the S4 roll is 10 per cent worse in Motherwell and Wishaw. The percentage of the S4 cohort that attained level 3 or better in the Scottish credit and qualifications framework is worse in Motherwell and Wishaw. Similarly, if we move on to other matters, we can see that reported admissions for drug misuse in Motherwell and Wishaw are 18 per cent higher than in Banff and Buchan. Finally, the estimated percentage of the population in the First Minister's constituency who have been prescribed drugs for anxiety, depression or psychosis is 46 per cent higher than in my constituency. Perhaps we can understand why the First Minister is worried.

**Mr McAveety:** If the member wants to draw those kinds of parallels, would it not be appropriate to do as most teachers would do and judge one constituency with a comparable constituency? The idea that Banff and Buchan can be compared to Motherwell and Wishaw is a misjudgment. It is not appropriate for making an assessment.

**Stewart Stevenson:** It is interesting to compare urban areas that the SNP represents with urban areas that the Labour Party represents. If the member goes through those constituency by constituency, he will find that the Labour Party faces the bigger challenge on the ground. If the First Minister is putting education at the centre of his future commitments and is being driven by the experience of his constituency to do so, I welcome that—it is good news. However, my central question is, is the Labour Party sincere?

In his opening speech, the minister said:

"We have given education top priority ... For me and my colleagues, education comes first".

Colleagues know that the internet is home from home for me. Naturally, I thought that I would look

up what Labour parliamentarians had to say on the subject of education. I started in the north-east, driven from the Labour Party's website via some interesting byroads. For example, the party's home page states:

"Bloggers4Labour brings hundreds of Labour-related blogs under one roof, offering a wide range of intelligent and incisive views on a wide range of topics."

That sounds encouraging.

We then move to the core of Bloggers4Labour. I confess that I cannot cite the concluding remarks in the first article, as standing orders do not permit me to provide the four-letter word, starting with F, that refers intelligently and incisively to an opponent of Labour. However, I was directed to Marlyn Glen's website. I printed out her blog, in which nothing about education was to be found. However, let us put that to one side.

Marlyn Glen's website gave me the opportunity to click on a button to see what there might be elsewhere. There may be some technical deficiencies in the site, because I received the response "nothing found". I then decided to look at the websites of the members for the Highlands and Islands, Maureen Macmillan and Peter Peacock, the Minister for Education and Young People. I do not know how recently the minister has looked at his website. I looked thoroughly at every page of it and found a single reference to education. That reference is in the Highlands and Islands survey, in which he asks the question:

"What change would do most to improve education in your area?"

In other words, the only reference to education on the minister's website is a question to his constituents, which asks them what he should do about it. I hope that when they tell him, he will listen to whatever they choose to say. The proposition that education is central to the Labour Party's future programme does not stand up to scrutiny.

**Dr Elaine Murray (Dumfries) (Lab):** I wonder whether the member has looked at my website, where he would find references to all the speeches that I have made on education, the questions that I have asked about it and the press releases that I have issued on it.

**Stewart Stevenson:** I very much look forward to the member's return to office and hope that Peter Peacock has a worthy successor in the brief period during which the Labour Party fills that post.

I am largely an autodidact. In the several dozen speeches that I have made on the subject of education, I draw on my own investigation, rather than the education that I received from my teachers. The fault for that lies in my domain, rather than someone else's. My responsibilities for

the SNP include prisons policy. One issue that is fundamental to this debate is the fact that 85 per cent of people in prison are functionally illiterate. That shows us once again the absolutely clear connection between the failure to learn and achieve and ending up at the bottom of the social pile. The words "Arbeit macht frei"—"Work will make you free"—appeared above the entrances to the camps in Nazi Germany. Education will make our generation free, but the Executive has yet to prove its commitment in the real world.

11:10

**Dr Elaine Murray (Dumfries) (Lab):** As other members have said, in his speech yesterday the First Minister stated his desire to ensure that by 2020 Scotland has the best education system in the world. I am sure that we all share that aspiration. In Scotland we have a good basis that will help us to attain that goal.

At the beginning of last week, the Minister for Education and Young People accompanied me to a small rural school in Lochmaben in my constituency. In its recent HMIE report, the school achieved either very good or excellent ratings in every category. Members have referred to sport and culture. In Lochmaben, we saw not only a fine school but an interesting sports programme. I confess that I am a Queen of the South supporter, but we must give credit to Gretna Football Club for the great work that it has done in that area. One of its outreach workers is teaching young girls and boys to play football and is working with their primary school teacher to develop curricular materials to build on that experience by using the children's interest in football to develop their numeracy and literacy skills. It is right that we should celebrate good practice in our schools and that we should do as much as we can to ensure that others know about it.

It is also right that we should celebrate what the Scottish Executive has achieved since 1999. All three of my children were born when Mrs Thatcher was Prime Minister. At the time, we lived in Ayrshire, where only one child in four had the opportunity to receive a year's pre-school education. Now every child from the age of three is entitled to pre-school education. That policy was introduced by the Labour Government in 1997 and has been continued by the Labour-led Executive in the Parliament since 1999. We should be proud of that achievement.

During my days as a councillor, I was involved in Convention of Scottish Local Authorities negotiations on teachers' salaries. I remember the frustration that we all felt in the mid-1990s, when we were unable to offer teachers the sort of recompense that they deserved for the vitally important job that they did. Although there may still

be issues arising from the McCrone settlement, we have solved the important problem of the remuneration of teachers and the value that we place on their skills.

Iain Smith made the point that we are improving eating habits, which is very important, by introducing free fresh fruit for primary 1 and 2 pupils. We are also introducing legislation to ensure good standards of nutrition in schools, which is more important than whether school meals are free for everyone or free for those who need that.

We are reforming the curriculum to ensure that it is interesting and relevant to all pupils. Andrew Welsh suggested that we are going to abolish history and modern studies. That is not and never has been the case. Curriculum reform is concerned with the way in which subjects are presented. We need to make the presentation of all subjects relevant to pupils, to allow them to access those subjects properly.

We are improving the teaching and learning environment for pupils and staff by investing in modern school buildings. The Scottish Executive has committed £103 million to Dumfries and Galloway, and 11 schools will be rebuilt under the PPP project. Investment is not limited to schools. Lord James Douglas-Hamilton referred to the importance of college education. Twenty-seven million pounds has been pledged for the rebuilding of Dumfries and Galloway College, which will be relocated next to the Crichton university campus, creating a unique campus for tertiary education in Dumfries and Galloway. That is an interesting experiment. Money is being invested to improve education in our country.

I agreed with much of what Richard Lochhead said about rural schools. It is important that we maintain primary schools in rural locations. If we do not, there will be a further drift of young people away from those areas.

Although there is a lot to be proud of in Scotland's education system, issues remain that require serious attention. As Scott Barrie and Peter Peacock said, outcomes for looked-after children need to be radically improved, and too many young people are still not in education, employment or training.

We have not made the progress in the past eight years that we wanted to make. The performance of the lowest-attaining 20 per cent of pupils has not improved and, in particular, there is a problem with young males underachieving. That might seem a strange thing for a middle-aged feminist to worry about, but we have a problem with how we educate young boys. Boys account for 90 per cent of exclusions from primary schools and over 75 per cent of exclusions from secondary schools.

There is a definite issue about how those young people relate to education. I can remember a time when it was not considered worth while to educate females, particularly in science subjects; I do not want us to reach the stage when a group of young males appears not to be worth educating. I was pleased by what the minister said about the Executive's determination to address those problems and look forward to hearing more about it.

I was going to speak about the need to improve science education, which is a great enthusiasm of mine, but I do not have time.

11:16

**David McLetchie (Edinburgh Pentlands) (Con):** Yesterday, as a number of members reminded us, the First Minister declared his intention for Scotland to have

"the best education system in the world by 2020."—[*Official Report*, 6 September 2006; c 27149.]

Fortunately for Scotland, the First Minister's target date is well beyond his likely term of office and, accordingly, it might be achieved if we have a change of Government, and more important, a change of policy.

Today's motion from the Scottish Executive reeks of complacency. It is being debated in a week in which CBI Scotland said that Scottish businesses, as employers, have to invest an unacceptably high proportion of the £2 billion that they commit to training annually in what is effectively remedial education, because far too many school leavers are not ready for work.

I accept Frank McAveety's rejoinder that the older generation habitually says that things are not as good as they were in their day. However, let us not forget that the persistent complaints about the readiness for work of our young people come after they have undergone 11 years of compulsory school education and—I say to the minister—nine years in which the Labour Party and a Labour Government have been in charge of Scotland's schools and education system. Frankly, it does not avail the Labour Party one whit to keep harping back to the past and trying to blame the halcyon days of the Conservative Government for its own miserable failures.

The motion is complacent because it says nothing about indiscipline and violence in our schools, about which my friend James Douglas-Hamilton produced some truly chilling and appalling statistics in his opening speech. The motion says nothing about the forced closures and mergers of popular schools. It says nothing about the imposition of artificial limits on primary school intakes, which is designed to eliminate choice. It says nothing about the rising number of composite

classes in Scottish schools. It says nothing about promoting diversity in our schools. In short, it is a complacent celebration of a one-size-fits-all, monolithic system of state education that betrays a shocking poverty of imagination and ambition.

I firmly believe that we have to move towards greater direct funding of our schools by the Scottish Executive. Interestingly, the Chancellor of the Exchequer announced in his budget speech this year that he would be making direct payments of £44,000 to a typical primary school and between £190,000 and £500,000 a year to secondary schools. The recipients of such largesse were not schools in Scotland, but schools in England. It is interesting that when it comes to managing budgets and determining priorities, Gordon Brown seems to have greater faith in the head teachers and school governors of King's Lynn than Peter Peacock has in the head teachers and school board members of Kirkcaldy. Mr Peacock and Mr Brown might care to discuss that curious contradiction later this evening, if they have time left over after stabbing the Prime Minister in the back.

**Iain Smith:** I have great difficulty understanding the Conservatives' position. They talk about greater devolution to schools, but at the same time they want to centralise control of the budget to the Scottish Executive. They want the decisions about how much money is spent in local schools to be taken at Victoria Quay rather than by local councils. Is that really devolution?

**David McLetchie:** Yes, it is, because it would devolve the management and determination of priorities to the head teacher and the school board who run the local school and cut out the appalling black hole of bureaucracy into which hundreds of millions of pounds are poured and wasted.

In fairness, there is one small ray of light. For 27 secondary schools in the Executive's schools of ambition programme, there is an additional direct budget allocation of £100,000 a year. That begs the question, if it is good enough for 27 secondary schools, then why not for the rest of them? What is so magical about the figure of £100,000? If one has in place the mechanisms to manage a budget of that size, one certainly has in place the mechanisms to manage larger budgets. I say to the minister, do not be such a feartie. Stop pandering to the vested interests in Scotland's councils that have held education back: direct funding and devolved school management are the way ahead.

It is interesting that, earlier this year, Lord Sutherland called for direct funding of schools, cutting out the councils and bureaucracy and the waste to which I referred in my answer to Mr Smith, to ensure that more resources go to the classroom. It comes as no surprise to me that a

great mind such as Lord Sutherland's can see the wisdom of a Conservative policy. Equally, it is no surprise to me that the small minds of Labour, the Lib Dems and the SNP cannot, because they are all fully paid-up members of the "aye been" tendency in Scottish education.

We need to encourage the establishment of new schools funded by the taxpayer but independently managed, like the city academies to which Murdo Fraser referred. It is a scandal that in Scotland today, although it might be the choice of only a small minority of parents, a Steiner education is available only to those who can afford to pay for it. I know that that concern is shared by members throughout the chamber. The problem is a mental block that affects far too many in this Parliament who fail to see that diversity and choice are but two sides of the same coin.

I finish with a quotation:

"Where we can, we must devolve power and responsibility because we know that real change, radical improvement and high quality is driven and sustained by the empowerment of those who deliver services and critically, by those who use them."

Those are not my words; they are Tom McCabe's in the executive summary of "Transforming Public Services: The Next Phase of Reform". Mr McCabe is absolutely right. If Mr Peacock would simply apply those principles to education in the way that I outlined, we might just have a chance of achieving that 2020 ambition.

11:22

**Mr Adam Ingram (South of Scotland) (SNP):** If the motion is anything to go by, I expect that the First Minister will take to his feet at question time today to claim credit for Scotland's victory in Lithuania last night.

Let us be clear: the achievements of the Scottish education system are hard earned and not gifted by a passing bunch of ministers, least of all by this lot in the Executive. Recognition for success should go to hard-working pupils and teachers in our schools, supportive parents, the educationists and training staff in our universities and colleges and yes, to the many unsung but dedicated public servants who contribute to the sector up and down the country. Let us remember—Frank McAveety reminded us—the strong foundations on which our modern comprehensive system is built: the centuries-old Scottish tradition of respect for education, not only as the means to fulfil personal aspirations but for the public good, offering equal opportunities for all and benefiting society as a whole. In that context, any Government has to be judged on how well it has used the means at its disposal in providing both the policy framework and resources needed to build on the strengths and tackle the weaknesses of our system.

One of the most obvious weaknesses after decades of neglect and underinvestment is the dire state of our schools estate. It is not exactly an advert for Westminster rule. So how has the Government gone about the rebuilding and refurbishment programme it was duty-bound to deliver on election? Certainly not by finding a Scottish solution to a Scottish problem. No—its answer was to import the Tory concept of the private finance initiative, tweaked here and there and, in typically new Labour fashion, renamed "public-private partnership" to make it sound a wee bit more socially conscious.

The SNP proposal to replace PPP with a not-for-profit trust and with public bond issues provides a much better deal. We estimate that if PPP deals in the pipeline used public bond issues £2 million would be released for extra investment.

**Robert Brown:** Will the member give way?

**David McLetchie:** Will the member give way?

**Mr Ingram:** In a moment, perhaps.

Peter Peacock claims that an SNP Government could achieve such an outcome only through independence. I beg to differ, but suggest that his arguments are doing our case no harm.

Renewing the physical infrastructure of our education system is certainly a major challenge, but it pales into insignificance compared with the endemic problem of underperformance by 1 in 5 school pupils. Given that that figure has remained constant, the Government cannot claim any progress at all in its seven years' stewardship of the system, and the CBI was quite right to highlight the scandal of how many of our youngsters can go through the school system without acquiring any literacy and numeracy skills. It is little wonder that we continue to have one of the highest rates in the western world of 16 to 19-year-olds who are not in education, employment or training.

Poverty and deprivation are at the root of the problem, and the Government has failed to break the vicious cycle of poverty leading to low educational attainment and, in turn, to low-paid jobs and unemployment. We believe that early intervention through the provision of high-quality child care and early years education is the key to turning this situation around. For children from deprived backgrounds, such an approach provides the early cognitive and behavioural gains that, if properly supported through the school journey, can help to equalise life chances and educational opportunities.

We emphasise that teachers will raise standards of literacy and numeracy through their work in the classroom. As a result, they must be given the freedom to teach. By advocating a leaving

certificate, Jack McConnell misses the point, because getting rid of the current assessment overload is an absolute priority. At the moment, teachers are training pupils to pass exams instead of concentrating on skills acquisition. The situation for classroom teachers is further complicated by the increased burdens of pursuing the mainstreaming agenda and coping with higher levels of pupil indiscipline.

Cutting class sizes must be the priority. After all, the benefits of such an approach are well recognised—and indeed were well articulated this morning by Rosemary Byrne and other members. However, as far as following through on its commitments in this respect, the Government has once again been found wanting. The patience of the teaching profession on this matter is fast running out, threatening the “stable industrial relations” that the Executive vaunts in its motion.

Despite the bluff and bluster that we have heard from members on the Executive parties’ benches this morning, the plain truth is that ministers’ reforming zeal has been confined to rhetoric, not to action. The Executive’s stewardship of the Scottish education system has been a failure and I trust that it will pay the appropriate penalty next May.

11:28

**The Deputy Minister for Education and Young People (Robert Brown):** This excellent debate very much follows the vision that the First Minister and Deputy First Minister set out in yesterday’s debate on the future of Scotland and has been marked by some good and relevant speeches. One of the best features of the Parliament is the way in which debates in the chamber can shape issues, eliminate the trivial and the partisan and produce an overall parliamentary view.

Let me be crystal clear: the life chances of young people are at the core of the Scottish Government’s—and the Parliament’s—vision for our country’s future. As some members have pointed out, the serious purpose of education and the value of the education system form part of our country’s psyche. Our country’s inventions and intellectual questioning have created much of the modern world. We have a clear vision of the direction of Scottish education, of our ambitions and of the further improvements that we can make to meet the major challenges that we face and that have also formed the subject of this debate.

This debate has provided a timely opportunity to acknowledge our strengths; to consider how far we have come since the regime of our predecessors and the dark days of the teachers’ dispute, underinvestment in school infrastructure,

declining teacher numbers and poor morale among teachers, parents and children; and to focus on the real successes that have been achieved and of which this Parliament can be proud.

We now have record numbers of new teachers and are well on the way to achieving our target of 53,000 new teachers by next year. Our children and young people will benefit from those vital additional resources. Those of us who travel around the country know that our schools are bursting with dynamic young teachers and able head teachers and leaders who have been brought forward and nurtured by this Scottish Government. They are reinvigorating our schools and taking them to new heights; and are providing our young people with the excitement and motivation that Nicol Stephen mentioned in yesterday’s debate.

Peter Peacock has already outlined our programme’s wide ranging nature. I do not want to go over all that again, except to point out that, after all the debate, no one has seriously challenged any part of the agenda or its direction. In her opening speech for the Opposition, Fiona Hyslop was desperate to find something to moan about. For example, she claimed that there has been no progress in reducing class sizes, and even made the bizarre suggestion that the new teachers that she accepts have been recruited have somehow vanished from the system.

The reality is very different. As Iain Smith rightly pointed out, class sizes and pupil to teacher ratios have declined steadily since 1999. Moreover, there are 2,700 post-probationer teachers from this year’s teacher induction scheme—the high quality of which, I might add, has been internationally recognised—and in 2006-07 local authorities will receive an additional £14.5 million investment to employ them. That funding is aligned with the needs and numbers of the new teachers who are coming through.

**Fiona Hyslop:** I note the minister’s concern that some councils might use the money for recruiting new teachers to fund pensions. Will the minister set out the Executive’s concerns in that respect? How will we ensure that the Parliament can account for where taxpayers’ money is going if it is not being used to recruit teachers?

**Robert Brown:** I accept Fiona Hyslop’s point. In this policy area, as in many others, there is a tension between the need to meet high-level Executive objectives—and I stress that we are determined to meet this particular high-level objective—and the discretion of local authorities to dispose of their funding. Communication with local authorities at ministerial and civil service level is continuing, and the release of the last tranche of the money has been linked to undertakings from

local authorities to deliver this objective. I am reasonably confident that, across the board, we will achieve the number of new teachers by the target date. However, that is not to say that individual issues will not arise in certain areas; after all, within the overall prospectus, councils need to tackle various local issues such as recruitment difficulties.

On discipline, which Lord James Douglas-Hamilton, Andrew Welsh and other members highlighted, I am sure that no one in the chamber disagrees with the point that violence in—and indeed, out of—schools cannot be tolerated. As a result, we have made it very clear that head teachers have full discretion over exclusions, where they prove to be necessary. However, in his exchange with Lord James Douglas-Hamilton, Scott Barrie hit the nail on the head when he said that we cannot stop at such measures. Instead, we must introduce strategies that not only deal with the immediate issue—after all, we cannot have children who have been excluded running about the streets—but attempt to remotivate these children to ensure that they can have a career and a future and that society does not have to suffer from the problems that they might cause.

**Lord James Douglas-Hamilton:** Is the minister aware that we have absolutely no objection to second chance learning centres that give those children a full opportunity to find their way back to the causeway? However, head teachers feel very strongly about the fact that they do not have the legal powers to exclude persistent offenders permanently.

**Robert Brown:** We have introduced structures—for example, with regard to additional learning needs—to address the matter across the board and have placed corporate duties on local authorities to deal adequately with such situations. After all, such problems require more than the rather limited response of excluding pupils, no matter how necessary that might be. Instead, we need a more extensive response that leads to long-term change.

I agree entirely with Robin Harper's aspiration for a genuinely liberal, child-centred education. He also highlighted the importance of visiting teachers of art, music and drama. Indeed, in one of our targets, we seek to take advantage of the opportunities provided by declining school rolls and increasing teacher numbers to boost the number of teachers in that regard.

Donald Gorrie made a number of interesting points about holding on to playing fields and about multisport centres. In Perthshire and elsewhere, I have been to see a number of multisport centres that the schools and communities use and that are working successfully. They are not a new idea, but they are well worth while encouraging.

Donald Gorrie also talked about youth work. We have just launched our consultation on the youth work strategy and I invite members who have an interest in that to respond to it by the 1 November closing date. We want the issues of resources throughout the country and outdoor education to emerge in the youth work debate. I recently had the opportunity to visit some of the youth hostels throughout Scotland. Those are part of the panoply of resources that are available and often provide some degree of expertise.

Richard Lochhead made a good speech about rural sustainability. There was much in what he said that members from all parties echoed. He will probably not be aware that, following the Education Committee's inquiry into the matter, the minister is about to write to the committee in response to its concerns about the 60 per cent threshold on which he touched. We do not want that threshold to be a determinant of policy on reviewing a rural school's future. Any local authority that wants to change the configuration of local schools must make a solid case for doing so against the background of some of the issues that Richard Lochhead rightly mentioned.

Stewart Stevenson made a relevant point about 85 per cent of prisoners being functionally illiterate. That, too, underlines some of the issues about which we have talked in the debate.

I have remarked before on the essential consensus in the Parliament on Scottish education. Not for the first time, that is borne out by the Opposition amendments. The Scottish National Party's amendment focuses on investment, while the Tories' amendment focuses on discipline and school boards. Those are certainly important issues, but they are hardly central to the system's direction.

I congratulate the Opposition parties on their support of our vision and the part that they play in committee in helping to refine and improve the Government's legislative programme. They are genuine and serious politicians and, like us, they want the best for our young people. However, let no member and no person who listens to the debate from the public gallery or beyond kid themselves that Scottish education's success or the widening horizons and exciting opportunities that are increasingly available to our young people are accidents or would have happened or would be safe in the Opposition parties' hands. Much work has gone into our current programme. Liberal Democrat and Labour members have contributed political insight and drive to moulding and delivering the partnership programme, while dedicated professionals in the civil service, local authorities and, above all, the schools have demonstrated commitment and care in delivering the programme.

We are a modernising Executive. We are delivering on our commitments to improve learning and teaching and create a dynamic and progressive education system that is fit for the 21<sup>st</sup> century. The Conservatives' searing electoral experiences since 1997 have not refreshed their vision. They are fighting the old battles on a sterile view of parental involvement and, even after the Parliament has spoken, will not engage with the opportunities for innovation and change that are offered by the Scottish Schools (Parental Involvement) Act 2006, which is one of the Parliament's most significant education acts.

There are incidents in our schools from time to time, just as there are incidents in wider society, but the vast majority of our young people are well behaved and work hard in school. We take seriously the need to support our teachers, which is why we have invested heavily to support a range of interventions under the better behaviour, better learning banner. However, we all know that there is no magic bullet for indiscipline, no simplistic nostrum of the kind beloved of the Tories. The key, as always, is strong leadership and the promotion of positive behaviour.

The SNP wants to abandon our highly successful school building programme. Its members are world experts in simplistic solutions. They are concerned about investment in education but would put that education at risk with years of constitutional uncertainty and the curious notion that cutting taxes and raising spending at the same time adds up. If the standard of basic arithmetic that our SNP colleagues exhibit is typical, it is just as well that we are investing so much in recruiting so many new maths teachers. I do not know how anybody can say that the odd idea that it is possible to suspend the normal rules of the market and obtain an interest advantage of 3 per cent is justified by reality.

I will finish on the more positive note that underlay many of the speeches. The challenge that underlies what we are trying to do with the remainder of the parliamentary session and beyond, which Peter Peacock describes as a long-term agenda, is to deal with underachievement in the system, in the NEET group and among looked-after children. In modern Scotland, it is not acceptable for any young person to fail to fulfil their potential. The challenge is difficult and complex, and we should devote the rest of this parliamentary session and beyond to addressing it. We must succeed in that.

## Question Time

### SCOTTISH EXECUTIVE

#### General Questions

11:40

#### Sexual Orientation (Prejudice and Discrimination)

**1. Susan Deacon (Edinburgh East and Musselburgh) (Lab):** To ask the Scottish Executive what measures it is taking to tackle prejudice and discrimination on grounds of sexual orientation. (S2O-10426)

**The Minister for Communities (Malcolm Chisholm):** We are taking measures to tackle prejudice and discrimination on the ground of sexual orientation in a range of areas including health, education and local government more generally. To develop further our approach to addressing the causes of prejudice and discrimination in Scotland, we have established a lesbian, gay, bisexual and transgender hearts and minds agenda group. It will examine social attitudes to LGBT people in Scotland and provide the Executive with specific recommendations on how we can challenge prejudice and tackle discrimination towards LGBT people.

**Susan Deacon:** Yesterday, the First Minister said to the Parliament:

"The job of Scotland's politicians—on all sides—is to lead and to promote tolerance and respect for different people, their cultures and their religions."—[*Official Report*, 6 September 2006; c 27149.]

I am sure that the minister will join me in welcoming that statement. Does he also agree that that spirit of tolerance and respect applies universally throughout our society? Will he assure me that we can look forward to the same leadership on and commitment to tackling prejudice and discrimination on the ground of sexual orientation as we have seen in the Executive's excellent work on tackling racism, sectarianism and prejudice in many other areas of life?

**Malcolm Chisholm:** I hope that we are showing that same leadership, because we have a strong commitment to the whole equalities agenda. That is manifested in several pieces of work that have been done on prejudice and discrimination against LGBT people.

I referred to the new piece of work, but Susan Deacon herself led the way when she was the Minister for Health and Community Care and the Scottish Executive Health Department has been

particularly strong in the area ever since. A recent phase of the work involved the development of good practice on LGBT issues for the national health service. That is continuing.

There has also been quite a lot of work in education, including recent research on homophobic incidents in schools. The Scottish Executive Education Department will respond soon to that research, which we commissioned. There will also be a new anti-bullying service, and we recently issued guidance to local authorities on improving policy and practice for LGBT people.

We are strongly committed to challenging any prejudice and discrimination against LGBT people and I hope that we treat all equality strands as equal.

### **Ship-to-ship Oil Transfers (Firth of Forth)**

**2. John Home Robertson (East Lothian) (Lab):** To ask the Scottish Executive what representations it has made to the United Kingdom Government in respect of the application by Forth Ports plc for consent for ship-to-ship transfers of oil cargoes in the Firth of Forth. (S2O-10431)

**The Deputy Minister for Environment and Rural Development (Rhona Brankin):** The Scottish Executive is in regular contact with the UK Government on a number of issues, including the application by Forth Ports plc for Maritime and Coastguard Agency approval for the oil spill contingency plan that is associated with the proposed ship-to-ship transfer of oil cargoes in the Firth of Forth that Forth Ports is considering.

**John Home Robertson:** Surely we are entitled to insist on the most rigorous safeguards for the Scottish coastline. What is the sense of creating a risk of disastrous pollution in the Firth of Forth by allowing trans-shipments of Russian oil between foreign ships that are bound for other countries, which will not create a single job in Scotland? Will the minister ask Allan Wilson, her colleague, to put it to Charles Hammond, the chairman of Scottish Enterprise Edinburgh and Lothian, that SEEL's responsibility for economic development is not compatible with the creation of a serious risk to a wide range of businesses in the Lothians and Fife for the sake of short-term gain by Forth Ports plc, whose chief executive is the same Charles Hammond?

**Rhona Brankin:** I agree absolutely with John Home Robertson that the protection of our coastline is paramount. That is why Scottish Natural Heritage and the Executive have repeatedly pressed Forth Ports and gained assurances from it on its responsibilities as a competent authority under the habitats directive.

Ross Finnie and I recently met Charles

Hammond, who assured us that he takes his responsibilities seriously. We must find a balance between economic development and environmental protection. That is the core of sustainable development. I am happy to draw this exchange to the attention of Charles Hammond and enterprise ministers.

**Bruce Crawford (Mid Scotland and Fife) (SNP):** I am grateful to John Home Robertson for lodging the question and I share many of his concerns.

Is the minister aware that Alyn Smith MEP was successful in writing to the European Commission to ask it to investigate the matter, in particular compliance with the protection safeguards defined under article 6 of Council directive 92/43/EEC? Has she had a chance yet to examine the issues in relation to the directive? Can she add value to the process of convincing the Commission that the whole process should be stopped? John Home Robertson is right to say that it could create a tragedy in the Forth and that the economic benefits in no way outweigh the environmental disaster that could come about.

**Rhona Brankin:** I am aware from press reports that an approach has been made to the Commission, but the Executive has not received anything from the Commission. I will keep the member informed on that. When we receive information from the Commission, we will respond to it. I would not want to say what our response will be, because I have not yet seen the letter from the Commission. It is the responsibility of Scottish ministers to ensure that the requirements of the habitats directive are met. We will take advice from Scottish Natural Heritage on that.

**Mr Mark Ruskell (Mid Scotland and Fife) (Green):** It has clearly been a busy summer, because I have been locked in a frustrating, unsuccessful battle with Forth Ports to get it to release information on how our protected wildlife is at risk from the oil-transfer proposals. The most recent, revised environmental impact assessment is still not in the public domain. Has the minister seen it yet? What analysis of it will she commission to establish whether the EIA complies with Forth Ports' responsibilities and her own legal responsibilities?

**Rhona Brankin:** No, I have not seen the revised EIA documentation, but I understand that SNH has been provided with a copy of it. I will take advice from SNH.

### **Dangerous Dogs Act 1991**

**3. Mr Duncan McNeil (Greenock and Inverclyde) (Lab):** To ask the Scottish Executive whether it will examine the case for adding the Japanese Akita to the types of dog proscribed

under the Dangerous Dogs Act 1991. (S2O-10443)

**The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon):** I am aware of the recent horrific attack by a Japanese Akita on a six-year-old child in the member's constituency. I wish him a speedy recovery and extend my sympathies to the family. I understand that the police have sent a report about the incident to the procurator fiscal in Greenock and a decision is awaited.

Vicious attacks by dogs are deplorable and there are harsh penalties for those found guilty of allowing any dog to be dangerously out of control in a public place. Those penalties include imprisonment, disqualifying the offender from having custody of a dog in future and, in certain cases, destruction of the dog. However, it would not be appropriate to add the Japanese Akita to the list of dogs proscribed as dangerous dogs as defined by the Dangerous Dogs Act 1991.

**Mr McNeil:** I thank the minister for the sympathy he has expressed for my six-year-old constituent, Stephen McCallum, who was savaged by an Akita while riding his bike, and to his family. I am disappointed that there are no plans to examine the matter. What has to happen before we take such action? Do we need to wait until a more serious event, injury or—God forbid—death? A cursory glance through the press reports shows that the latest attack is not an isolated incident. Therefore, is it not important to establish whether those dogs are being unfairly singled out by the media or are inherently dangerous? Can officials not, at the very least, collate reports sent to the police or the procurator fiscal regarding offences under the 1991 act?

**George Lyon:** Ministers have order-making powers for the purpose of proscribing dogs under section 1 of the 1991 act. To use those powers, ministers would need to be provided with evidence that attacks by a specific type of dog were on the increase and would need to justify the stricter controls that are placed on such dogs, such as neutering and muzzling in public places. In the first instance, ministers would look to the police to suggest that the list of proscribed dogs be extended, based on an increase in attacks by a specific type of dog. This is the first complaint about a Japanese Akita that the Scottish Executive has received. We have not received any requests from the police to add to the proscribed list of dangerous dogs. However, we will keep the situation under review and will discuss the matter with the Association of Chief Police Officers in Scotland.

## **Smoking Ban (Noise, Litter and Antisocial Behaviour)**

**4. Mr Ted Brocklebank (Mid Scotland and Fife) (Con):** To ask the Scottish Executive what measures it is taking to address any increased level of noise, litter and antisocial behaviour outside public houses and other licensed premises directly resulting from the legislation prohibiting smoking in public places. (S2O-10418)

**The Minister for Health and Community Care (Mr Andy Kerr):** Local authorities and the police have existing powers that enable them to handle any such problems and, together with the Scottish Executive, will keep those issues under review.

**Mr Brocklebank:** I have had a number of complaints from constituents about the problem. Does the minister believe that it is fair or just that one of the consequences of the legislation is that, through no fault of their own, non-customers of licensed premises are being subjected to noise levels and disturbances that did not happen previously?

**Mr Kerr:** First, there is no evidence of public disorder. I accept that there is anecdotal evidence—the member has just given me some on noise. Individuals should take up the matter with the licence holder or proprietor of the institution. If that is not successful, individuals should take up the matter with the local authority or the police. Those are the most appropriate steps forward. I have visited other countries with a smoking ban such as ours, and those issues were discussed. Significant problems had not been detected in countries in which the ban had been in place for longer. However, the Scottish Executive is responsible in how it legislates and will continue to monitor the situation. My first advice is for anyone affected by the issue to get in touch with the proprietor or, if that does not resolve the issue, the local authority.

**Mr Stewart Maxwell (West of Scotland) (SNP):** Does the minister agree that litter dropping, antisocial behaviour and noise nuisance are not new and that, rather than being a direct result of the smoking ban, they are the result of individuals' attitudes? Does he further agree that the upside of the smoking ban outweighs, by many thousandfold, the small inconveniences that may be caused by some people who do not take their role in society seriously?

**Mr Kerr:** I agree with much of that but we must understand and be sympathetic to those who may be affected by the legislation. The public health consequences of the legislation far outweigh those issues; nonetheless, families will be affected by the legislation in the way in which Ted Brocklebank described. The problems are not insurmountable and can be resolved. I go back to

my previous point, which was that individuals should speak to the proprietor and to the local authority. Things can be done about such situations if they arise. Evidence from all around the world is that the issues are not insurmountable, and routes are available for individuals to resolve such matters more appropriately.

### **Sports Facilities**

**5. Tricia Marwick (Mid Scotland and Fife) (SNP):** To ask the Scottish Executive what support it gives for the provision of sports facilities. (S2O-10406)

**The Minister for Tourism, Culture and Sport (Patricia Ferguson):** The Executive is investing £28.8 million in the national and regional facilities strategy to support the development of multisport facilities across Scotland.

**Tricia Marwick:** The minister is aware from the "National Audit of Scotland's Sports Facilities" of upgrade and maintenance costs of £306 million a year for the next 25 years. Given the Labour-Liberal Democrat Government's stated aim of improving the fitness and health of Scots, what additional measures does it intend to introduce to plug the funding gap? What financial assistance will be given to Fife Council to upgrade and renew Fife institute and the Carnegie leisure centre and to provide a new swimming pool for Kirkcaldy?

**Patricia Ferguson:** The report to which Tricia Marwick refers identifies a number of issues, all of which are of great interest, and in some cases concern, to me and the Scottish Executive. The results of the report show why we commissioned it in the first place, so we will work with partners to take it forward. It is important to remind members that the initial responsibility for providing such facilities lies with local authorities. One of the interesting points that came out of the report was that not enough money had been spent on on-going maintenance of many facilities, particularly those that were built recently. That is an issue that we have been reminding local authorities about.

I am well aware that Fife Council is currently deliberating on what to do with its facilities, but I am afraid that it would not be appropriate for me to offer any comment on what support could be made available to the council until the council itself has come to a decision on what it wants to do.

**Christine May (Central Fife) (Lab):** Will the minister confirm that there is a good working relationship between Fife Council, her officials and the national agencies, which has already resulted in considerable funding for leisure and sports facilities in my constituency in Fife? Will she confirm that, as I discussed with her earlier this year, the regional assistance that might be

available for facilities such as those in Glenrothes could be a matter for on-going discussion?

**Patricia Ferguson:** I am happy to confirm that there is a good working relationship between officials in Fife Council, in the Executive and, of course, in sportscotland. It is worth pointing out that, since 1995, facilities in Fife have benefited from around £6.5 million in awards made, including £500,000 for a synthetic pitch at Wade academy, £200,000 for Dalgety Bay bowling club, and £500,000 for the Pitreavie indoor athletics facility. Through the new opportunities for physical education and sport funding, Markinch primary school received more than £77,000 for a multi-use games area, and 26 projects in Mid Scotland and Fife have benefited from funding from the same fund. That includes £485,000 for synthetic pitches and floodlights at Balwearie high school and £68,000 for a multi-use games area at Kippen primary school.

**Mr Jamie McGrigor (Highlands and Islands) (Con):** The minister may be aware that, this coming Saturday in Beaulieu, the shinty teams of Fort William and Glenorchy will battle it out for the Sutherland cup, which is an important fixture in shinty's annual calendar. What is the Executive doing to provide more facilities for shinty and to give general encouragement to the game in Scotland?

**Patricia Ferguson:** Mr McGrigor may have noted from my previous response that one of the things that we are keen to do is to ensure that, where facilities are provided, they can be used for as many purposes as is sensibly possible. When we build multi-use games areas, the needs of those who wish to play shinty are, of course, taken into account. I am aware that the Sutherland cup event is taking place this weekend. In fact, I attended that fixture last year and am sorry that I will not be able to attend it this year, because I will be attending UK school sports events in Glasgow over the weekend.

### **Roadside Verges (Litter)**

**6. Mr Andrew Arbuckle (Mid Scotland and Fife) (LD):** To ask the Scottish Executive whether it will consider introducing the adopt-a-highway scheme used in the United States of America, whereby roadside verges are kept free of litter with the voluntary help of individuals and organisations. (S2O-10466)

**The Minister for Environment and Rural Development (Ross Finnie):** The Environmental Protection Act 1990 places a statutory duty on various bodies to keep roads clear of litter. Adopt-a-highway schemes clearly have attractions, but they also have health and safety implications that would require consideration if the responsible bodies wished to introduce them.

**Mr Arbuckle:** Adopt-a-highway projects are worth pursuing, because they increase civic responsibility. Will the minister consider discussing the matter with the relevant companies?

**Ross Finnie:** I would be happy to do so. The burden of what I said in my first reply is that those companies have a statutory responsibility to keep verges free of litter, and I would be reluctant to encourage them to believe that they might be relieved of that responsibility. Nevertheless, I share Mr Arbuckle's point that civic responsibility is something that we would wish to encourage.

### Youth Work

**7. Iain Smith (North East Fife) (LD):** To ask the Scottish Executive how its plans for youth work in Scotland will enhance the personal, social and educational development of young people and enable them to gain a voice, influence and a place in society. (S2O-10468)

**The Deputy Minister for Education and Young People (Robert Brown):** Youth work has a key role in enhancing the personal, social and educational development of young people. We want to develop that role in empowering young people to become confident individuals, effective contributors, successful learners and responsible citizens—the key outcomes set out in “A Curriculum for Excellence”. A consultation on youth work is currently under way with a view to publishing a youth work strategy.

**Iain Smith:** I welcome the publication of the consultation paper on youth work. Does the minister agree that the consultation gives us all an opportunity to promote the many positive contributions that the majority of our young people make in their communities, instead of demonising all young people for the behaviour of a small minority? What will he do to ensure that young people are fully engaged in the debate on the future of youth work?

**Robert Brown:** I very much agree with Mr Smith. We want to encourage youth work throughout Scotland to contribute of its best and we want to consult youth organisations and young people more generally. Young Scot is consulting young people through its online portal, dialogue youth units and youth information networks. The Scottish Youth Parliament is also involved through its network. We provide a number of grants to smaller organisations to consult hard-to-reach groups. YouthLink Scotland is also organising information sessions for youth workers and volunteers throughout the country.

## First Minister's Question Time

12:00

### Cabinet (Meetings)

**1. Nicola Sturgeon (Glasgow) (SNP):** At the risk of tempting fate, I know that we will all want to congratulate Scotland on an excellent start to the Euro qualifiers.

To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-2407)

**The First Minister (Mr Jack McConnell):** In addition, it would be good for us to congratulate all those in Scottish sport and in Scottish culture who have had such a successful summer. Ms Ferguson mentioned the UK school games, which take place in Glasgow this weekend. I wish all the Scottish schools competitors who are taking part all the best.

The next meeting of the Cabinet will, as ever, discuss issues of importance to Scotland.

**Nicola Sturgeon:** Is the First Minister aware that the civil war that is currently engulfing his party has a big impact on the governance of Scotland and that people in Scotland expect their First Minister to have a view on the matter? Yesterday, he was given the opportunity to back the Prime Minister but he refused to do so. I ask him again: as First Minister of Scotland, does he think that Tony Blair should stay as Prime Minister for another year, or should he go?

**The First Minister:** As I have said before, not only is Tony Blair the most successful Labour Prime Minister ever, but Gordon Brown is the most successful Labour chancellor ever. I am very proud of both of them. However, despite the fact that they have provided the stability and growth in the United Kingdom economy that have helped us in Scotland to secure the resources that we need, it has actually been the decisions of this Parliament that have led to the improved school results, the reductions in health waiting times, the increase in growth and in jobs and the reductions in crime that we see in Scotland today. Therefore, for this Parliament and for MSPs, the discussions and debates that take place in this Parliament are far more important.

**Nicola Sturgeon:** It is remarkable that the First Minister even manages to sit on the fence on the question of Tony or Gordon. He has turned prevarication into an art form.

The First Minister said in this chamber on 11 May that Tony Blair

“is the most successful leader of my party ever”.—[*Official Report*, 11 May 2006; c 25548.]

Is it not the case that Tony Blair has lost the trust of people in Scotland and throughout the UK on issues such as the illegal war in Iraq, slavish support for George Bush's foreign policy and support for nuclear weapons and nuclear power? Does the First Minister accept that on each and every one of those issues the Prime Minister has had the full support not only of Gordon Brown but of the First Minister himself? Does the First Minister agree that the problem is not just Tony Blair—the problem is Labour?

**The Presiding Officer (Mr George Reid):** These are issues on which the First Minister must have responsibility but also on which he has taken a position.

**The First Minister:** The UK Government has had my full support as it led the world on climate change and secured the agreements at Kyoto. It also led the world in tackling poverty through the G8 summit in Scotland last year, the doubling of the UK's aid budget and the way in which the international community now treats issues in Africa and elsewhere far more seriously. The UK Government has played a leading role on those and on many other matters, including the writing off of debt for Malawi last Friday, which we should all welcome.

I am very pleased that the Scottish National Party wants to talk about the question of leadership. The SNP had a leader in the Scottish Parliament in the early days of this Parliament, but after a year he could not hack it and went back to London. He cut and run and went away back to the other Parliament in the south. The SNP then had another leader, in whom there was so much confidence on his back benches that members were leaving the SNP group in droves. He had to call a vote of confidence and ultimately had to resign. The SNP had a leadership contender who lasted for only half the campaign and gave up because she did not want to stand any more. Now it has a leader who says that he wants to come back, but he was not prepared to come back as soon as he became the leader. Next year, he wants to do the job part time, alongside his other job in Westminster.

We will take no lessons from the SNP on leadership. Both in the United Kingdom and in Scotland it is real political leadership that is delivering the goods for the people, not the SNP's idea of part-time leadership or the failed leadership of the past.

**Nicola Sturgeon:** I say to the First Minister that he will be leaving office at the same time as the Prime Minister next May because my leader is coming to replace him. We know that Gordon Brown is coming to Parliament today, supposedly to give the First Minister a pep talk on how he should run Scotland. Instead of taking a lecture

from Mr Brown, is it not time that the First Minister gave Mr Brown a message? When the First Minister meets Mr Brown today, will he simply be pledging his allegiance to him, or will he tell him to stop the backbiting that is so damaging governance in this country?

**The First Minister:** I will be absolutely clear. Whoever is Prime Minister of this country, my job as First Minister is to stand up for Scotland to ensure that they know what is needed here. However, let us return to the issue of leadership again just for a second, Presiding Officer—I can assure you that it will be worth it.

Let us have a wee look at how many elections the new leader—or rather, perhaps, the old leader—of the SNP has been through. He lost the 1992 general election, the 1992 district elections, the 1994 European elections, the 1994 regional elections and the 1995 single-tier local authority elections. He also lost the general election in 1997, the Scottish Parliament election in 1999—despite leading by 15 per cent in the polls about 12 months beforehand—the 1999 European elections and the 2005 general election. He has a record that is unsurpassed in modern electoral history. While Ms Sturgeon might have been disappointed about his return—Ms Cunningham certainly was—I can assure her that we are all delighted.

**Nicola Sturgeon:** For a First Minister who says that he does not feel threatened by Alex Salmond, he certainly talks about him enough. However, is it not the case that it does not matter who holds the keys to number 10—whether it is Tony Blair, Gordon Brown or whoever—because the same bad old policies will stay? Is it not the case that Scotland is scunnered with Labour? Is it not the case that in Scotland it is time for a change, not just of Prime Minister but of First Minister and of Government?

**The First Minister:** This is fun, so I will reluctantly be brief. I will just be very clear about what real leadership is all about. It is about making the right decisions for the country, and the right decisions in the United Kingdom have led to Britain's longest period of sustained economic growth and the highest economic growth that we have enjoyed in modern times. Further, here in Scotland the right decisions have led to decreases in health service waiting times, increases in good school results, decreases in crime and increases in jobs and growth. That is what the people of Scotland want from their Parliament and from their Government, and that is what they are going to get as long as we are in charge.

## Prime Minister (Meetings)

**2. Miss Annabel Goldie (West of Scotland) (Con):** To ask the First Minister when he will next

meet the current Prime Minister and what issues they will discuss. (S2F-2408)

**The First Minister (Mr Jack McConnell):** I had a very enjoyable lunch with the Prime Minister last Saturday, but I do not have any more immediate plans to meet him.

**Miss Goldie:** Well, that may prove to be auspicious.

The First Minister, along with many others, may have asked the Prime Minister about his retirement plans. However, as much as the First Minister might like to blame the Prime Minister for all his woes, he cannot hide behind the Prime Minister's pinny strings for ever. For example, he cannot blame Tony Blair for the violence in Scottish schools. This morning, my colleague Lord James Douglas-Hamilton highlighted figures he received under freedom of information that show that attacks on school staff have gone up a horrific 14 per cent in a single year. Indeed, in the Minister for Education and Young People's home area of Moray, the number of physical assaults on staff rocketed from 34 in 2004-05 to 188 in 2005-06, which is more than a five-fold increase.

Does the First Minister agree with the Educational Institute of Scotland that the Scottish Executive should provide as a matter of urgency additional off-site facilities for children and young people who display particularly challenging behaviour?

**The First Minister:** We are, of course, doing that, but it is also important to recognise—as the Conservatives refuse to do, but as Her Majesty's Inspectorate of Education does—that the vast majority of Scottish schoolchildren are well behaved and the vast majority of Scottish classrooms are orderly classrooms where results are improving and educational attainment is on the increase. At the same time, any violence or disruption in school classrooms is a serious matter. That is precisely why we are providing resources for on-site and off-site facilities, depending on the appropriate choice in each school, and additional support staff to ensure that teachers are able not just to cope better but to succeed more in the classroom.

**Miss Goldie:** The First Minister will also be aware of the CBI Scotland manifesto that was issued yesterday, which attacked the education system, claiming that Scottish businesses were having to foot the bill for remedial lessons for school leavers because too many pupils lacked the basic skills needed for the workplace.

Does the First Minister accept that while violence is rife in the classroom, the standard of teaching and quality of education will inevitably be affected? Does he accept that unless head teachers have the powers necessary to exclude

permanently the small number of persistently disruptive pupils who are driving valued staff away from the profession and disrupting schools, that unacceptable situation will continue?

**The First Minister:** There we have another Tory misrepresentation. It is not the case that teachers cannot exclude children from the classroom or that such exclusions have any time limit on them, apart from that designated by the school or local authority. Teachers, head teachers and local authorities have the right to manage their schools and classrooms to ensure that any disruption is properly tackled. Any Tory misrepresentation of that fact is wrong and should not be repeated.

**Miss Goldie:** I hear what the First Minister is saying, but just as alarming as the growing problem with discipline in our schools is his irresponsible attempt to cover up the truth by refusing to publish the annual statistics. We can address the problem only if we know the full facts. Will he therefore now give a commitment to publish this vital information annually, however bad the figures are?

**The First Minister:** My understanding is that this year's survey is due to be published this month. I am sure that when it is, we will be able to debate it with Miss Goldie.

### Secretary of State for Scotland (Meetings)

**3. Robin Harper (Lothians) (Green):** To ask the First Minister when he will next meet the Secretary of State for Scotland and what issues he intends to discuss. (S2F-2409)

**The First Minister (Mr Jack McConnell):** I have regular meetings with the Secretary of State for Scotland at which we discuss issues of importance to Scotland.

**Robin Harper:** When the First Minister meets a certain influential Fife MP this afternoon, perhaps he might take the opportunity to raise an issue of grave concern to the people of Fife and the whole Firth of Forth region. I am talking about the behaviour of Forth Ports plc. Forth Ports is about to award itself permission to operate ship-to-ship oil transfer in the Firth of Forth. It acts as judge, jury and executioner by regulating the marine environment while benefiting financially from a decision that it will make that will seriously threaten that environment. Does the First Minister agree that that is an entirely unacceptable conflict of interests?

**The First Minister:** Forth Ports is not able to operate independently of all the regulations that exist on the matter. The marine agency responsible, in addition to Forth Ports, has a responsibility to ensure that any such transfers are safe, and we in the Executive have a responsibility to ensure that Forth Ports takes on board any

representations that we make, particularly in relation to the implementation of the habitats directive. We have both taken those entirely appropriate courses of action.

**Robin Harper:** I hope that the Executive pursues energetically the powers that it will have under the habitats directive. However, this is about a conflict of interests, which, in the case of Forth Ports, extends to the company's refusal to comply with the Freedom of Information (Scotland) Act 2002. Unison has joined the Green party in condemning such unaccountable profiteering and all those public-private partnerships that hide the facts by claiming commercial confidentiality. If a private company is delivering a public service, is it not right that it should be just as transparent and accountable as a public body? What is the First Minister going to do about the situation?

**The First Minister:** Of course arrangements should be transparent and accountable. However, when contracts are being negotiated and sums of money—particularly from the public purse—are involved, it is entirely sensible that there is a degree of confidentiality around that. It would be nonsensical to have a situation in which such negotiations could not take place in private. Although decisions have to be transparent and accountable and public agencies or those who act for them have to be answerable for their actions—and the freedom of information commissioner has a role to play in that—at the same time, when contracts are involved, there are things that have to be confidential. Anybody who has ever done any business with anybody anywhere knows that to be the case, no matter what the Green party has to say about it.

**Bruce Crawford (Mid Scotland and Fife) (SNP):** On the simple matter of the environmental impact assessment that was carried out on the practice of transferring oil from ship to ship in the Forth, does the First Minister think that that information should be in the public domain, under the Freedom of Information (Scotland) Act 2002?

**The First Minister:** I am not sure what the legal position is on that. I am happy to take advice and ensure that the member has a written answer as soon as possible.

#### **Criminal Proceedings etc (Reform) (Scotland) Bill**

**4. Mrs Mary Mulligan (Linlithgow) (Lab):** To ask the First Minister whether the Criminal Proceedings etc (Reform) (Scotland) Bill in any way contravenes the European convention on human rights. (S2F-2415)

**The First Minister (Mr Jack McConnell):** No. Both the Executive and the Parliamentary authorities scrutinised the provisions of the bill in

detail before its introduction and agreed that they were within the legislative competence of this Parliament. That scrutiny process included a determination that the bill's provisions comply with the European convention on human rights.

**Mrs Mulligan:** I thank the First Minister for that assurance. However, he will be aware of the Law Society's concerns about the situation with regard to the opt-out provision in relation to fiscal fines, where silence is equated with guilt. Given that the maximum fine will rise to £500, does the First Minister recognise my concerns about the fact that the range of offences that are included under fiscal fine extension will widen, meaning that victims who expect to get their day in court might not and that repeat offenders might not easily be recognised? Further, does he agree that procurators fiscal should have the power to refer to appropriate services offenders whose drug or alcohol problems contribute to their offending behaviour, so as to deal with the causes of criminal behaviour and not just the crime?

**The First Minister:** I know the level of priority that Mary Mulligan gives to tackling issues on behalf of victims and witnesses and I want to reassure her on the matters that she raises.

Fiscals will be expected to report repeat offenders or those who have those problems in the same way that we would expect our courts to do. While the range of offences that might be affected by the new orders will widen, it will not include violent or serious crimes. Of course, it will be important for the fiscals to ensure that repeat offenders appear in front of the courts.

**Margaret Mitchell (Central Scotland) (Con):** Does the First Minister agree that, since the incorporation of ECHR directly into Scots law, it has become impossible to return to the same level of protection that bail regulations in Scotland afforded prior to that taking effect?

**The First Minister:** The Parliament is aware that we are tightening up the bail provisions by ensuring that the new bill, which will deal with that issue, states clearly the matters that our judges and sheriffs will have to take into account when making relevant decisions. That will ensure that the public interest and, in particular, public safety are to the fore in those decisions. That is an important change and clarification in the law that, I hope, is being welcomed on all sides of the chamber and will be supported. I am certain that the change has the full support of the public.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** Is the First Minister aware that some individuals who will be subject to notices or orders will have learning disabilities or difficulties? What support will there be to ensure that those people will be able to understand and appreciate

their rights, given the fact that the system will feature an opting in provision rather than an opting out provision?

**The First Minister:** I would be happy for Jeremy Purvis to receive a detailed answer to that point from the Solicitor General for Scotland or the Minister for Justice. However, because this is an important point, I want to stress that the new system will allow a person who has missed the initial 28-day period to come back at a later date and request that the matter go to court. Although the new system will kick in after 28 days, it will always be possible for someone to say that they made a mistake or did not understand the process and that they want to implement the procedures that will result in the case being heard in court. That is an important caveat to the new system. It is a safeguard that will help those individuals who have any difficulties with correspondence or other forms of communication. I hope that that will be borne in mind by everybody when the Parliament considers the bill and the amendments that the Executive lodges.

#### **European Union Enlargement (New Workers)**

**5. John Farquhar Munro (Ross, Skye and Inverness West) (LD):** To ask the First Minister how many new workers are expected to come to Scotland when Bulgaria and Romania join the European Union. (S2F-2416)

**The First Minister (Mr Jack McConnell):** It is important, in order to reverse population decline and have a more dynamic economy, that Scotland welcomes legal migrants, particularly those whose skills can help our economy. Although it would not be appropriate to speculate in advance of final decisions on further enlargement of the European Union, we remain in close contact with the United Kingdom Government on the matter. Those discussions continue.

**John Farquhar Munro:** Does the First Minister agree that migrant workers from eastern Europe have brought numerous benefits to Scotland, particularly in the underpopulated Highlands and Islands, where skills are scarce, to say the least. Does he agree that if the United Kingdom Government introduces a restrictive, work-permit immigration system for the new accession states, that would be an unjust reversal of the previous open-door policy and would be potentially damaging for Scotland?

**The First Minister:** Discussions on the issue are on-going at a UK level and we are participating in them. It is important that those discussions are able to take place without my pre-empting them in that particular way. The one thing that I would say is that it will be important, across the European Union, to ensure that the accession of any further states is carried through in a way that maintains

popular support for the European Union and does not destabilise the nations of the European Union.

At the same time, I share John Farquhar Munro's enthusiasm for the way in which the new legal migrants in Scotland have come here, worked very hard and made a contribution to our economy. That is perhaps particularly true in John Farquhar Munro's constituency, where, earlier this summer, I had the pleasure of being served in the Glenfinnan House Hotel by young people from at least three different eastern European countries. They were a pleasure to meet and were working to a very high standard. I hope that perhaps they were having an impact on many of the indigenous Scots who could work in that industry as well.

**Christine Grahame (South of Scotland) (SNP):** Notwithstanding what the First Minister had to say about those pleasant young people, is he aware of the concerns that Citizens Advice Scotland raised in June about the working conditions of migrant workers? They often live in poorly maintained caravans, work excessive hours and are exploited by employers who make illegal deductions. I think that the First Minister recognises Scotland's low population base and its very different requirements from England, but after seven years of Liberal-Labour coalition Government, where is the population strategy that balances fairness to migrant workers and also helps us to keep Scotland's young people here? They are so burdened with student debts that they often migrate to escape them.

**The First Minister:** The member is so miserable that it is hard for me to get out of my seat to answer the question.

The reality is, first, that Scotland is a country with good employment laws. They are far better than they used to be, and individuals who work in Scotland and elsewhere in the UK are protected by them. We also have new laws to protect against illegal gangmasters who were exploiting people, leading to the mass deaths that we have seen on a number of occasions in recent years.

However, Scotland is also a country where young people do things flexibly from time to time. I remember living in a caravan when I worked in a pub when I was 18—in Arran, back in my student days. Young people sometimes make that choice. If they are not making that choice but are being exploited, it is clear that the employers should be tackled by the authorities. That is why we have a legal system in Scotland that does that.

I cannot let Ms Grahame's final assertion pass. The truth is that, in the seven years of devolution, the number of young Scots graduates who leave our universities and stay in Scotland has increased from 79 per cent to 89 per cent. In 2004, net in-migration to Scotland increased by 26,000—

the highest figure since records began. That was followed in 2005 by net in-migration of 19,500. One of the best parts of that is that the majority of those people are coming from elsewhere in the United Kingdom rather than from elsewhere in the world, which means that we have reversed the brain drain. No amount of negative moaning by the Scottish National Party will cover up those facts and run Scotland down.

**Phil Gallie (South of Scotland) (Con):** Despite the First Minister's words, I draw his attention to Scottish Enterprise's report today, which emphasises the great need to attract more of Scotland's graduates back to Scotland. Perhaps there is a degree of conflict there.

I point out to the First Minister that the fresh talent initiative was brought out at the same time as European expansion. At that time, we on this side of the chamber forecast a far greater number of eastern European immigrants to Scotland. That immigration has occurred, and it has been far greater than has ever been estimated by the Executive. We welcome the immigration, but we also have concerns about pressures on our social services, our health service, our education services and other such services. Will the First Minister undertake to ensure that our social services can meet the demands of further immigration from Romania and Bulgaria?

**The First Minister:** I am dismayed by the tone of the question but I will answer the substantive point. We are providing additional resources for the teaching of English as a second language and are assisting those authorities that are welcoming new people to ensure that gaps in skills and employment in the authorities' areas can be filled by people from elsewhere.

One other point that I would make is this: I hope that the next eastern European migrant who serves Phil Gallie in a pub or restaurant in Edinburgh or anywhere else is a lot more courteous to him than he is to them.

**Irene Oldfather (Cunninghame South) (Lab):** Does the First Minister agree that, as well as offering opportunities to new migrant workers, enlargement provides opportunities for Scottish business and manufacturing industry to expand into new export markets? Those opportunities would be put at risk by the policies of the Opposition parties on withdrawal from the common fisheries policy and withdrawal from Europe.

**The First Minister:** I could not agree more. Irene Oldfather makes outstanding points very clearly, as she does so often on European matters. The policies of the Opposition parties would greatly damage Scotland's interests in Europe, whereas the policies of this devolved

Government are enhancing Scotland's opportunities in Europe.

### Scottish Food (Promotion)

**6. Richard Lochhead (Moray) (SNP):** To ask the First Minister what action is being taken to promote Scotland's excellent food produce at home and abroad. (S2F-2420)

**The First Minister (Mr Jack McConnell):** I thank Richard Lochhead for his very positive question about a very positive subject.

In this Scottish food fortnight, I am happy to say that Scotland has many high-quality food products. We can justly be proud of them. Ministers actively support trade organisations and individual companies in the promotion of those products. In addition to providing assistance for market development, we recently helped to relaunch Scottish beef into export markets, and whenever I am promoting Scottish companies at home or abroad, I take every opportunity to promote Scottish produce.

**Richard Lochhead:** This being Scottish food fortnight, I know that we will all want to celebrate Scotland's food industry.

Is the First Minister aware of the increasing concern that the frequent abuse of power by some supermarkets is crippling some of our food and drinks companies and the farms that supply them? What is his message to the supermarkets today? Irrespective of the Competition Commission's current inquiry—it has a poor track record on this matter—will he pick up cudgels on behalf of Scotland's food producers and meet personally the supermarket bosses in order to fight for Scotland's food producers and consumers?

**The First Minister:** In recent months I have discussed this matter with NFU Scotland and others. The matter is of course of great concern to Scotland's food producers, although there is always a balance to be struck between the interests of the producers and the interests of the consumers of the produce. It is important that the Competition Commission concludes its inquiry as quickly as possible.

The Minister for Environment and Rural Development met the commission yesterday and put forward a number of important points. We look forward to the commission concluding its investigation and taking those points on board, thus ensuring both that Scottish producers have a stable industry through which they can contribute to our wider economy and that consumers are protected with good-quality produce at a decent price.

**John Scott (Ayr) (Con):** I declare an interest as a farmer before asking this question.

The First Minister will be aware that there are now more than 70 farmers markets in Scotland, with many more farm shops selling local food to local people. Does he agree that those markets and farm shops also offer an opportunity to promote local food to tourists from all over the world and to support our growing tourism industry in Ayrshire, Arran and Scotland as a whole?

**The First Minister:** John Scott is tempting me with a little mention of Arran—he is trying to get me onside. I regret not having been able to visit the farmers market here in the Parliament last night, because of other business. I hope that it was a successful occasion. Farmers markets have been a great success throughout Scotland over recent years. Not only do they help to promote the produce of local producers, but they are a very enjoyable experience for those of us who visit them regularly. I want us to do all that we can to encourage the growth of farmers markets and to encourage local people to use them, as well as tourists to enjoy them.

**The Presiding Officer:** As we started late, we have time for one last supplementary question.

**Nora Radcliffe (Gordon) (LD):** The First Minister missed himself at last night's event in the Parliament, which was a superb display of what Scotland has to offer in the way of food. I ask for his assurance that the Executive, in various departments, is doing its best to iron out ambiguities in food labelling, which can get in the way of people exercising their choice to buy local produce.

**The First Minister:** The issue of food labelling is tricky. It is important that we find a way to highlight Scottish produce clearly, while at the same time not overregulating the industry, particularly in a way that would be unhelpful to the tourism industry. Ministers are currently trying to ensure that we strike the right balance between improvements in labelling and not having overregulation or excessive bureaucracy. If we can find a solution to that challenge, we will be happy to introduce measures to achieve that.

**Phil Gallie (South of Scotland) (Con):** On a point of order, Presiding Officer. The First Minister accused me of discourtesy in the chamber. I take great exception to that. I try not to be discourteous to anyone. If my words are analysed in the *Official Report* tomorrow, he will see that I actually welcomed the immigrants to whom he referred and that I was at no time discourteous to them or to anyone else. Would you ask the First Minister to apologise?

**The Presiding Officer:** You have made your point clearly and loudly. The First Minister will no doubt read the *Official Report*. Parliament is suspended until—

**Margo MacDonald (Lothians) (Ind):** Further to that point of order, Presiding Officer.

**The Presiding Officer:** You were just on the bell, Mrs MacDonald.

**Margo MacDonald:** My point also concerns the matter of discourtesy. As an ordinary back-bench member, I consider it discourteous for front-bench members to take up so much of the short period in which we may call the Executive to account by acting out their internal, internecine party squabbles. Could we have less of that and more questions next week?

12:33

*Meeting suspended until 14:15.*

14:15

*On resuming—*

## Question Time

### SCOTTISH EXECUTIVE

#### Enterprise, Lifelong Learning and Transport

##### A9 (Improvements)

**1. Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** To ask the Scottish Executive what progress is being made in relation to major improvements to the A9; what sections of the road will be dualled; whether it considers that the provision of dualling will reduce the number of accidents resulting in death or serious injury, and when the design work in respect of dualling the section from Perth to Ballinluig will be completed. (S2O-10410)

**The Minister for Transport (Tavish Scott):** The procurement procedure has commenced for the new junction at Ballinluig and tenders will be invited later this month. Design is being pressed forward on the remaining projects.

Additional dual carriageway is being provided at Ballinluig and at Crubenmore. Dualling elsewhere will be considered as part of the wider strategic transport projects review.

All road improvements that are undertaken on the A9, whether they consist of junction upgrades, dualling or the provision of unambiguous overtaking opportunities on three-lane sections of road, are expected to provide safer travel.

The A9 route improvement strategy study indicated that the case for dualling between Perth and Ballinluig needs to be addressed. A feasibility study of the difficult length between the Pass of Birnam and Ballinluig will be submitted to Transport Scotland at the end of this year, which will allow the wider evaluation to be addressed by the strategic transport projects review.

**Fergus Ewing:** Does the minister agree that although many accidents result primarily from driver error, the Automobile Association has provided clear evidence that dual carriageways are twice as safe as single carriageways, which means that one benefit of dualling the A9 from Perth to Inverness would be fewer fatalities in Scotland?

**Tavish Scott:** As I said in my original answer, there is no doubt that the road improvements that are being carried out, whether they consist of dualling or the provision of unambiguous—I stress that word—overtaking opportunities through the

use of three-lane sections of road, provide a safer road network. That is why we are progressing our work on the A9. We will continue to assess the arguments that are made in respect of that road in the strategic transport projects review.

**Murdo Fraser (Mid Scotland and Fife) (Con):** For many years, I have raised with the minister the need for the A9 to be upgraded to dual carriageway status. In relation to the studies that are being done, what factors will determine the decision whether to proceed with dualling? In particular, will the road safety record on what we know is the deadliest road in Scotland be taken into account?

**Tavish Scott:** I can assure Mr Fraser and other members that the road safety record is a factor when it comes to investment decisions about the A9, just as it is with decisions about any of the roads on our trunk road network. The accident prevention work that we do across the network ensures that roads' safety records are considered regularly. One of the most important aspects of the strategic transport projects review is the comparative journey times that are created by public transport on the one hand and the road network on the other. We will continue that work to ensure that an objective assessment is made against the criteria that we will use.

**Maureen Macmillan (Highlands and Islands) (Lab):** The minister will know that the A9 runs north as well as south from Inverness and that there have been more fatalities on the northern part of the A9 than on the southern section. In addition, public transport on that route is extremely slow. Can the minister give any indication of improvements that might be made on the A9 between Inverness and Thurso?

**Tavish Scott:** Maureen Macmillan makes a fair point about the northern stretch of the A9 and about the fact that it takes significantly longer to travel by train between Inverness and Thurso than it does to go by bus or private car. That argument is being considered as part of the corridor study in the strategic transport projects review. I can certainly give the member a breakdown of past and present investments on the A9 north of Inverness, on which we hope to make further progress.

**The Deputy Presiding Officer (Trish Godman):** Question 2 was not lodged.

##### Business Start-ups (Support)

**3. Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** To ask the Scottish Executive what support it is giving for starting up new businesses. (S2O-10463)

**The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Nicol**

**Stephen):** The Executive remains strongly committed to supporting more Scots to start up in business. In the Scottish Enterprise area, for example, support is available through the business gateway and involves access to information, advice and training. In some circumstances, financial assistance can be available, including the £1,000 start-up grant for young people aged 18 to 30.

**Jeremy Purvis:** The minister will be aware that unemployment is thankfully very low in my constituency and that the level of start-up businesses is high. He will also be aware of the redundancies over the summer at Selkirk Glass and Edinburgh Crystal—which has on-going difficulties—and at the cashmere firm Murray Allan of Innerleithen, many of whose staff I have spoken to over the summer.

Does the minister agree that support now needs to be targeted at areas where there has traditionally been a low rate of start-ups? I am thinking in particular of Penicuik in Midlothian. Will he work with Midlothian Council and Midlothian Chamber of Commerce and Enterprise to make progress on a gateway in the town of Penicuik?

**Nicol Stephen:** I would be very pleased to work with all the agencies that are involved. Clearly, the lead responsibility on those issues lies with Scottish Enterprise. I would be happy to pass on to Scottish Enterprise the suggestions that Jeremy Purvis has made for improving the business start-up rate in parts of his constituency.

I have been concerned about the job losses to which Jeremy Purvis referred and their impact not only on the individuals involved and their families, but on their communities. However, as Jeremy Purvis suggested, it is encouraging that we are now seeing an increase in the number of start-ups in Scotland. We have to work hard to ensure that the rates that are achieved in some of the best-performing areas of Scotland are reflected in all parts of Scotland.

**Jim Mather (Highlands and Islands) (SNP):** I am keen for the minister to tell me whether the Executive has, through the enterprise agencies, surveyed the founders of new VAT-registered businesses, including those that have not taken up the support of the agencies, to find out how attractive and effective the current measures are. If that has not happened, will he advise the agencies to carry out such a study?

**Nicol Stephen:** Scottish Enterprise has certainly done a significant amount of work on the issue. As Jim Mather knows, the issue of business birth rates has been a major initiative for Scottish Enterprise. Progress has been made and some of the statistics reflect that. There has been a strong increase of 7 per cent in the number of new

business accounts when compared to the corresponding quarter—quarter 2—last year. Those are positive figures.

Small and medium-sized businesses make a crucial contribution to the economy—98 per cent of all businesses are small and have fewer than 50 employees. This is an area in which we must get it right and where we have to do more.

Jeremy Purvis made positive suggestions and I welcome Jim Mather's contribution. I will pass on his suggestion to Scottish Enterprise. We have to do everything we can to make Scotland a more enterprising nation. We need to encourage business entrepreneurs to take the risk, to start up in business and to generate jobs and profit for the future economy of Scotland.

### Medical Top-up Fees (Student Numbers)

**4. Mark Ballard (Lothians) (Green):** To ask the Scottish Executive what effect the introduction of medical top-up fees has had on the number of English, Welsh and Northern Irish domiciled students starting medical degrees at Scottish universities in 2006-07. (S2O-10400)

**The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson):** The provisional acceptance figures from the Universities and Colleges Admissions Service suggest that the number of students from the rest of the United Kingdom planning to start a medical degree in Scotland has dropped by 60 compared to this point last year. These places have been taken up by highly qualified Scots domiciled students among whom acceptances have risen by 60 compared to last year.

**Mark Ballard:** Does the minister have any information on the socioeconomic profile of those who make up the decrease of 60? How far has the additional charge for English, Welsh and Northern Irish students deterred students from the rest of the UK who come from low-income backgrounds from attending Scottish universities?

**Allan Wilson:** It would have been too much to expect Mr Ballard to admit that he was wrong when he opposed the measure. The figures demonstrate that we have succeeded in our objective of protecting opportunities for Scottish students. In 2005, the number of Scottish students who were accepted to study for a medical degree fell by 14 per cent, whereas this year acceptances rose by 12 per cent. That is evidence of our success in restoring cross-border equilibrium.

On the member's final point, we continue to operate separate programmes to encourage students from the most disadvantaged backgrounds. Students from elsewhere in the UK are eligible to apply for student loans to cover their fees as well as for a higher education grant of

between £2,700 and £3,200 per year, even if they choose to study in Scotland. On every aspect that the member identifies, we have been right and he has been wrong.

**Fiona Hyslop (Lothians) (SNP):** The minister will recall that the reason for introducing the huge increase in top-up fees for medical students was the need to tackle the problem of retaining doctors in Scotland. He says that there are 60 more Scotland-domiciled medical students in Scotland this year, but is he aware that in south-east Scotland only 296 anaesthetists will be in training next year, whereas 400 are in training this year? Does he acknowledge that those figures mean that 104 doctors who should be in Scotland might need to leave Scotland and go to England? Training doctors has always been a problem and the attempt to tackle the issue by increasing top-up fees as part of changes to the higher education system was fundamentally flawed.

**Allan Wilson:** I take it that the member admits that she, too, was wrong to oppose the measure.

We have reversed the decline in acceptances of Scottish students to study in Scottish medical schools. We have done that because we know that Scottish students who study in Scottish medical schools are two and a half times more likely to stay in Scotland to practise medicine. At every level, we were right and the member was wrong.

**The Deputy Presiding Officer:** Question 5 was not lodged.

#### **Scottish Enterprise (Modern Apprenticeships Programme)**

**6. Ms Maureen Watt (North East Scotland) (SNP):** To ask the Scottish Executive whether it considers a reduction in Scottish Enterprise's modern apprenticeships programme for over-25s to be discriminatory on the ground of age. (S2O-10415)

**The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson):** Modern apprenticeships continue to be available to individuals of all ages. The enterprise network supports modern apprenticeships across all age groups and occupational sectors.

There is no current legislative restriction in relation to age, although the Scottish Executive and the enterprise network are liaising with the Department of Trade and Industry on the implications that legislation might have on training programmes that are targeted at specific age groups. That will clearly be factored into any future design of training programmes.

**Ms Watt:** The minister's answer does not square with the briefings that I had from Scottish

Enterprise this morning and in recent meetings with Scottish Enterprise Tayside and Scottish Enterprise Grampian. In order to balance the budget, something clearly had to go: it appears that the over-25s modern apprenticeships programme has been reduced. Does the minister agree that that reduction and the in-built discrimination in respect of the business development scheme, in which there is an age limit of 50, are detrimental to the Scottish economy? Does he agree that as we have an aging population we should more proactively encourage people into retraining, which is precisely what the over-25s modern apprenticeship is designed to do?

**Allan Wilson:** I agree with the member's latter point and will consider the matter that she raised about Scottish Enterprise. As always, the budget is finite and it is Scottish Enterprise's job to prioritise its activity, in order to reflect the importance that we place on the industries and companies that offer the greatest benefit and return to the Scottish economy. The member was correct to make that point. Scottish Enterprise's activity must also reflect the ministerial priority that we place on the younger age group, which is important.

A record number of apprentices are in training and 34,000 places have been secured. That means that we have exceeded by 4,000—and two years ahead of schedule—our partnership commitment to provide 30,000 apprenticeships. The programme is enormously successful and we want that success to continue. We want there to be opportunities for the younger age group, but we and Scottish Enterprise must ensure that that does not mean that opportunities are reduced for people to take up over-25s modern apprenticeships, which we introduced.

**John Scott (Ayr) (Con):** The minister will be aware that we have corresponded on training matters, which have impacted badly on training provision in Ayrshire. What action has he taken to ensure that adequate funding will be in place for the financial year 2007-08 and thereafter to meet the full training needs of all those who are seeking a place on the modern apprenticeships scheme in Ayrshire and Scotland?

**Allan Wilson:** In May, my colleague the Deputy First Minister and Minister for Enterprise and Lifelong Learning wrote to the chairman of Scottish Enterprise to inform him of an additional resource of £50 million that we had made available, which gives Scottish Enterprise a total resource budget of £550 million for the next financial year. It was made clear then that when Scottish Enterprise allocates its budget, it must have regard to the three themes of the smart, successful Scotland strategy, which include

ensuring the best start for all young people, to whom I have just referred.

Scottish Enterprise is also required to ensure that it continues to play its part in ensuring that the partnership agreement's target of 30,000 places is met and that the figures are maintained in the future. We expect the enterprise networks to deliver on that commitment.

**Alasdair Morgan (South of Scotland) (SNP):** The minister said that money had to be targeted where it would be most effective, and Ms Watt pointed to the age limit on the business development grant. Should the conclusion be reached that money is more effectively targeted at young people and that people who are over a certain age do not represent an effective investment?

**Allan Wilson:** No. I do not agree with that general statement, as I think I have made clear. In conjunction with Scottish Enterprise, we are reviewing all our training provision—particularly training provision and programmes that are targeted at specific age groups—because we must ensure that it complies with the law when age discrimination law changes in October. In general terms, there are successful programmes that are targeted at specific age groups for specific purposes that we want to continue if they have proved to be successful.

#### **Strategic Transport Projects Review (Maybole Bypass)**

**7. Mr Adam Ingram (South of Scotland) (SNP):** To ask the Scottish Executive what priority will be given in the strategic transport projects review to proposals for a Maybole bypass. (S2O-10455)

**The Minister for Transport (Tavish Scott):** A bypass for Maybole will be assessed against the contribution that it would make towards delivering the objectives that arise from the national transport strategy when it is considered as part of the strategic transport projects review.

**Mr Ingram:** The minister has met the bypass campaigners—in fact, he is the star of a little leaflet that is being distributed in Maybole—and will be well aware of the strength of the case for the bypass and the depth of feeling in the community, which has been created as a result of decades of fruitless pleading. The campaigners have only one question left: how much longer must we wait? Will the minister be kind enough to give them a straight answer to that question this afternoon?

**Tavish Scott:** It is always nice to be the star of a leaflet. That does not happen to me often—in fact, it has never happened. I take Mr Ingram's kind observations in that light.

I was grateful for the meeting with the campaigning group that Cathy Jamieson, as the constituency member, arranged. The meeting was a useful opportunity to learn more about the project.

I take the points that have been made about the importance of the bypass. The straight and fairest answer that I can give today is that the strategic projects review will consider the bypass. That consideration will conclude by the summer of 2008 when the ministers of the day will have to make decisions, as ministers must do with respect to other bypass campaigns and road projects throughout Scotland.

#### **M80 (Online Route)**

**8. Donald Gorrie (Central Scotland) (LD):** To ask the Scottish Executive how the people of Cumbernauld will benefit from the decision to follow the online route for the new M80. (S2O-10458)

**The Minister for Transport (Tavish Scott):** The M80 will improve journey times, reliability and road safety along the corridor. It will also benefit residents of Cumbernauld as a result of better access between local roads and the M80, reduced disruption from traffic diverting into the town to avoid incidents on the trunk road and reduced traffic noise.

**Donald Gorrie:** The minister will be aware that a number of people in Cumbernauld are concerned that the new proposal will not adequately cope with future traffic on the M80—which will be considerable—and that it will cause environmental and pollution problems for neighbouring communities. What can the minister say to them to assuage their concerns?

**Tavish Scott:** I understand the points that have been made in relation to the traffic projections and the environmental and pollution problems. The public local inquiry, which was held in October 2005, considered those matters in some detail and I have no doubt that submissions and representations were made on those matters at that time. The public local inquiry's findings were made public earlier in the summer. We supported those findings and the project will now proceed.

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** The residents of my constituency feel that the measures that will be introduced to mitigate noise do not go far enough. Can the minister assure me that he will reconsider the proposals and consider increasing the height of bunding and fencing to 3m as the road passes through Cumbernauld from Condorrat to Castlecary? Can he also advise me how the proposals for the park-and-ride facility at Castlecary are progressing?

**Tavish Scott:** I am happy to write to Cathie Craigie on the park-and-ride facility that she mentions. I do not have the specific details of that contract with me today. I take her point about the noise impact. We would be happy to look into that, and I will share with her the technical advice that I receive on the matter.

## Justice and Law Officers

### Bail Supervision

**1. John Farquhar Munro (Ross, Skye and Inverness West) (LD):** To ask the Scottish Executive whether there are any plans to extend bail supervision throughout Scotland. (S2O-10465)

**The Minister for Justice (Cathy Jamieson):** All local authorities are provided with Executive funding for bail information and supervision schemes. In order to improve the way in which such schemes work, we will undertake a short review of those who do not currently provide a full bail supervision service. That will be completed by the end of the year.

**John Farquhar Munro:** The minister will agree that bail supervision could play an increasingly valid role in providing courts with a robust and cost-effective alternative to remand, as well as reducing overcrowding in our prisons. Will the minister consider increasing the use of bail supervision throughout Scotland, in particular for those who are accused of minor offences?

**Cathy Jamieson:** It is important that we have a range of options. In the interests of public safety, it is important that some people who have committed serious offences are remanded. However, we have increased the funding that is available to local authorities for the provision of bail information and supervision schemes from just over £300,000 in 1999—when the schemes were first piloted—to around £1.1 million in this financial year. It is important that we look at how those schemes are working.

I want to ensure that we have a range of options in place. Of course, bail can never completely replace custody. As I have mentioned, there are some instances in which remand is necessary. Nonetheless, it is important that we consider how such schemes operate and that we have them in place across Scotland.

**Stewart Stevenson (Banff and Buchan) (SNP):** In advance of next week's debate on the Criminal Proceedings etc (Reform) (Scotland) Bill, will the minister tell us whether she is minded to ensure that people who breach bail are seen to be punished for breach of bail? She will recognise that there is widespread public concern about the current operation of the bail system.

**Cathy Jamieson:** It is important that anyone who is subject to bail conditions—whether the standard conditions or specific conditions that have been imposed by a court—recognises that they have been put in a position of trust by the court. They have a responsibility to stick to the conditions of the scheme. It is for the courts to decide what such conditions are and what would be an appropriate action to be taken if there was breach of bail. However, I am on record on several occasions as supporting strongly the notion that we cannot increase confidence in our justice system if people feel that they can break bail and flout the conditions of the court because nothing will happen to them. It is, nonetheless, for the court to make those decisions.

### Quad Bikes (Legislation)

**2. Dr Jean Turner (Strathkelvin and Bearsden) (Ind):** To ask the Scottish Executive whether it will consider introducing legislation to control the use of quad bikes by minors. (S2O-10397)

**The Deputy Minister for Justice (Hugh Henry):** The use of quad bikes on roads is illegal under existing road traffic legislation. Using a quad bike in an antisocial manner off-road is covered by powers under the Antisocial Behaviour etc (Scotland) Act 2004.

**Dr Turner:** I am sure that the minister agrees that quad bikes and mini-motorbikes are not toys and that they can be dangerous in the hands of minors. Existing legislation deals with the disruption and damage that are caused to communities by those vehicles, but will the minister assure me that he will put in place some kind of mandatory registration scheme under which safety guidance on the use of vehicles is not just given out at the point of sale—as it is on some occasions—but adhered to?

**Hugh Henry:** What Jean Turner proposes would be a matter for Westminster if it is to do with the sale of such goods or if it impacts on road traffic issues. However, I make the point that the use of such bikes on the roads is already illegal under existing United Kingdom legislation. There are powers to deal with those who use such bikes inappropriately and it would be a matter for the appropriate agencies to use those powers.

**Paul Martin (Glasgow Springburn) (Lab):** I put on the record my appreciation of Jean Turner's support for the amendment that I lodged during the passage of the Antisocial Behaviour etc (Scotland) Bill on police powers to seize quad bikes. Her support was welcome.

Will the minister consider not only reminding parents of the dangers of quad bikes but enabling the seizure of quad bikes? It appears that parents

are able to pay the fines that are imposed and, therefore, that quad bikes can be recovered. I ask the minister to consider ensuring that we are able to dispose of the quad bikes of those who cause antisocial disruption.

**Hugh Henry:** Paul Martin makes a welcome suggestion about ensuring that parents are aware of the dangers of these machines. Parents certainly have a responsibility to ensure that their children are protected.

As far as the seizure and disposal of vehicles are concerned, the law in Scotland is similar to the law in England and Wales and the owner must be given the opportunity to retrieve the vehicle before it is destroyed. It is certainly within ministerial powers to determine how long the period should be during which the owner may recover the vehicle. Any change to that would require primary legislation, but it is certainly open to ministers under regulation to determine how long a person should have to retrieve the vehicle.

On the use of the powers to warn and to seize vehicles, I have the figures only up to the end of the previous formal monitoring period, which was to the end of March 2006. For vehicles generally—not specifically the vehicles that we are discussing—almost 1,000 warning notices were issued and more than 50 vehicles were seized throughout Scotland. Both Paul Martin and Jean Turner raise an issue pertinent to Strathclyde. The information that I have been given is that, by the end of March 2006, every police force in Scotland had used the available powers with the exception of Strathclyde. I do not know the reason for the powers not being used in the Strathclyde area. Paul Martin and Jean Turner might wish to raise that with the chief constable.

**Christine Grahame (South of Scotland) (SNP):** On the question of statistics, will the minister advise me how often antisocial behaviour orders have been used to deal with boy and girl-racers, who cause such distress in communities such as Hawick and Penicuik? If he does not have the figures today, will he provide them? I do not think that antisocial behaviour orders are being used sufficiently.

**Hugh Henry:** Of course, it would not just be ASBOs; the existing charge of breach of the peace could be used in those situations if the police believed that that was appropriate. I do not have the specific figures on ASBOs. If Christine Grahame wishes to write to me about the matter, I will look at that, but I know that, throughout Scotland, the new powers under the Antisocial Behaviour etc (Scotland) Act 2004 are being used effectively. I have spoken to police in Fife, who have been active in taking measures to protect the public, and also to police in Grampian. I am

encouraged by what they are doing to protect those whom they serve.

### Antisocial Behaviour Orders

**3. John Swinburne (Central Scotland) (SSCUP):** To ask the Scottish Executive whether procurators fiscal covering the parliamentary Central Scotland region have the capacity to progress every antisocial behaviour order submitted to them by the police. (S2O-10399)

**The Lord Advocate (Colin Boyd):** The police do not submit antisocial behaviour orders to the procurator fiscal. Antisocial behaviour orders are one of a range of penalties that are available to the judiciary in criminal courts when sentencing a person who has been convicted of a crime. Alternatively, an application can be made by a local authority for an antisocial behaviour order in the civil courts.

**John Swinburne:** The police do not issue ASBOs lightly or indiscriminately. However, according to reports, thousands of ASBOs have been returned with the recommendation that no further action be taken, which makes a mockery of the process. Are the police and procurators fiscal on the same wavelength? Is enough money being put into the matter? It costs money to progress an ASBO—anything from £2,200 to more than £6,000. Are the fiscals' offices being leant upon because councils cannot afford to progress the ASBOs that are presented by the police? Is it any wonder that many young people treat ASBOs with contempt?

**The Lord Advocate:** I am sorry that Mr Swinburne did not listen to my previous answer. The police do not submit antisocial behaviour orders to procurators fiscal. Antisocial behaviour orders are imposed by the judiciary after conviction in the criminal court. Alternatively, they are progressed in the civil courts by a local authority. They are not progressed by procurators fiscal. If Mr Swinburne wishes to focus on a particular issue that he thinks is the responsibility of procurators fiscal, I will be happy to respond to any correspondence on that. However, it is important to realise that procurators fiscal do not apply for antisocial behaviour orders in the court.

### Strathclyde Police (Call Centres)

**4. Des McNulty (Clydebank and Milngavie) (Lab):** To ask the Scottish Executive what monitoring is in place of the amount of time telephone callers wait to be answered, particularly at peak times, following Strathclyde police's introduction of call centres. (S2O-10445)

**The Minister for Justice (Cathy Jamieson):** The public have a right to expect that their calls to the police will be answered quickly. As the

member will be aware, call handling within Strathclyde police is an operational matter for the chief constable. In Strathclyde, the current average answer times are four seconds for 999 calls and 15 seconds for non-emergency calls.

**Des McNulty:** I welcome the introduction of a call handling system in Strathclyde, provided that it can be operated efficiently. Some of the early signs are promising, but I and, I am sure, other members have had repeated complaints that, although telephone calls are answered, it can take a considerable time for the police to arrive. Bearing in mind that we have a new efficient system of recording calls, could the police be asked to record the time at which they attend incidents as part of the call monitoring system? That would give us an accurate indication of how quickly the police respond to calls, which is obviously a matter of concern to the general public.

**Cathy Jamieson:** During the introductory stages of the new call system, some teething problems arose in particular areas—I, too, have heard concerns about that. On the point that the member makes, it is important to realise that part of the reason for introducing the new system was to enable the volume of calls to be dealt with so that people could talk to someone rather than hang on at the end of the telephone not receiving a response. As Des McNulty acknowledged, the early signs on that are positive. Another aim was to ensure that the police could deal with demand at peak times so that people were available to deal with the most urgent calls.

Of course, there will still be prioritisation of calls, based on the type of incident. Some people may well find that, because the more serious incidents, particularly those that involve individual victims, are prioritised, other issues are dealt with by community police officers or in another manner. There is an issue about feedback, both to individuals who make calls and to the general public. Therefore, Mr McNulty's points are well made and I am sure that the issues that he raises will be taken up in future discussions with the police.

### Wildlife Crime

**5. Rob Gibson (Highlands and Islands) (SNP):** To ask the Scottish Executive whether the number of prosecutions for wildlife crime meets its targets. (S2O-10456)

**The Solicitor General for Scotland (Mrs Elish Angiolini):** The Crown Office and Procurator Fiscal Service is Scotland's sole prosecution authority. The decision whether to prosecute is based on the facts and circumstances of each individual case—the COPFS does not have operational targets that relate to the number of

prosecutions in respect of any category of crime, including wildlife crime.

**Rob Gibson:** The Executive will be aware of the pattern of raptor persecution by poisoning, nest destruction, egg removal and the use of spring traps and cage traps, which corresponds with the main distribution of game shooting in Scotland, both on grouse moors and where pheasants are released for shooting. Given the occasional conviction of estate workers, is the Solicitor General satisfied that there are sufficient police wildlife officers and specifically trained staff in the prosecution service to gather enough evidence to convict those who give the orders to conduct raptor persecution, who are not necessarily the people who carry it out?

**The Solicitor General for Scotland:** I am aware that wildlife crime is an issue that the Association of Chief Police Officers in Scotland takes very seriously. One hundred police wildlife crime officers have now been established across Scotland, and training for all police officers on the range and armoury of legislation that the Scottish Parliament has made available in relation to wildlife and habitat crime is now being embarked upon. In addition, there are 22 specialist prosecutors in environmental and wildlife crime who deal specifically with such issues, and who are available to mark the decision-making process in Scotland and to provide advice to specialist officers.

Furthermore, Tom Dysart, the area procurator fiscal for Dumfries and Galloway, has recently taken up the chair of a new wildlife and habitats crime forum, which includes in its membership the Scottish Executive Environment and Rural Affairs Department, the police, the Scottish Society for the Prevention of Cruelty to Animals and RSPB Scotland, which all have the intention of ensuring that, as far as possible, wildlife crime is detected and dealt with, and that evidence is gathered in the most effective way possible.

Wildlife crime is unlike many other crimes. It takes place not in public places but, necessarily, in fairly remote areas. Intelligence-led policing is clearly important and work is being done to develop that. There are a number of on-going prosecutions in this area, particularly with regard to raptors. I hope to be able to report to the Parliament at the conclusion of those cases.

### Scottish Fingerprint Service (Non-numeric Fingerprint Standard)

**6. Marlyn Glen (North East Scotland) (Lab):** To ask the Scottish Executive what the implications are of the introduction of the non-numeric fingerprint standard to the Scottish fingerprint service. (S2O-10429)

**The Minister for Justice (Cathy Jamieson):**

The new standard has operated in other jurisdictions for some time. Its introduction in Scotland follows careful planning and preparation. The standard will not directly alter the way in which marks are identified and verified. However, when evidence is presented in court, experts will now offer a fuller explanation of how they arrived at their conclusion, so that it can be more fully and easily understood. The introduction of the standard represents a key milestone in "The Scottish Fingerprint Service Action Plan for Excellence" and another step towards securing a world-class fingerprint service in Scotland.

**Marlyn Glen:** I thank the minister for that very full answer. I had intended to go on to ask her what some of the other consequences would be.

We have examined the action plan for excellence in the Justice 1 Committee, and we note the progress that has already been made. Does the minister agree that the change will play a large part in re-establishing confidence in the fingerprint service? I am glad that the minister agrees that it should provide a higher quality of understanding and clarity for the evidence that is given by expert witnesses in court.

**The Deputy Presiding Officer:** Is there a question here, Ms Glen?

**Marlyn Glen:** How big a part does the minister think the change to the standard will play in re-establishing confidence in the fingerprint service?

**Cathy Jamieson:** It is important that we do whatever we can to ensure that the public, and indeed those who use the service, have confidence in it. That is why we produced what I think is a comprehensive action plan, which I will have the opportunity to discuss further when I make an appearance at the Justice 1 Committee in the not-too-distant future. The standard is used elsewhere and it is internationally recognised. My objective is to ensure that everything that is done in the Scottish fingerprint service meets international standards and that we lead the way in the future.

**Criminal Legal Aid (Scottish Islands)**

**7. Mr Jim Wallace (Orkney) (LD):** To ask the Scottish Executive whether it will undertake a survey of the availability of criminal legal aid in the Scottish islands to enable any shortcomings to be identified and addressed. (S2O-10462)

**The Deputy Minister for Justice (Hugh Henry):** We are concerned to ensure an adequate supply of criminal legal aid services throughout Scotland and we are keeping the position under review.

**Mr Wallace:** Before the summer recess, the minister gave me some very helpful replies in relation to civil legal aid. He will appreciate that, with criminal legal aid, the timescale is much more imminent. I have written to the minister very recently—he might not yet have seen the letter—about a particular constituent who had great difficulty accessing a solicitor in Orkney, and had to get one from Aberdeen, who, in the end, was not able to travel to Orkney for the case. Such situations arise, so would the minister be prepared to consider imaginative ways of addressing the problems of criminal legal aid in the same constructive manner as he did for civil legal aid?

**Hugh Henry:** I do not wish to pre-empt the next debate, but during it I hope to refer to an initiative that may well give some satisfaction to Jim Wallace and his constituents.

## Points of Order

14:55

**Stewart Stevenson (Banff and Buchan) (SNP):** On a point of order, Presiding Officer. Would you be minded to inquire of the two members who failed to lodge questions the reasons why that occurred? For those of us whose names appear to be permanently stuck to the inside of the ballot drum, it is a particularly frustrating phenomenon.

**The Deputy Presiding Officer (Trish Godman):** I am well aware of the reasons why the two questions were not lodged, and I am very happy with them.

**Mr John Swinney (North Tayside) (SNP):** On a point of order, Presiding Officer.

**The Deputy Presiding Officer:** I call Mr Swinburne—sorry, I mean Mr Swinney.

**Mr Swinney:** There are some fundamental differences between us.

Presiding Officer, I seek your guidance about the contents of today's *Business Bulletin*, particularly in relation to the 103 amendments that have been lodged to the Scottish Commissioner for Human Rights Bill by the Deputy Minister for Education and Young People. From my reading, those amendments would fundamentally recast the contents of the bill and, indeed, change the title and substance of a bill that has already been introduced into Parliament.

Although Parliament gave its agreement at stage 1 to the general principles of the Scottish Commissioner for Human Rights Bill, the Justice 1 Committee will be asked to consider amendments that will transform the commissioner into a commission and fundamentally recast the contents and financial implications of the bill.

Presiding Officer, could you provide me with some guidance on the appropriateness of such a substantial change to a bill that has been introduced into Parliament, and say whether any guidance will be issued to members on the question?

**The Deputy Presiding Officer:** Amendments can be considered for lodging only when they are within the scope of the bill. My understanding is that that is decided in conjunction with the committee's convener, and that that has happened in this case. However, I will look into the matter, and if I have anything further to say, I will get back to Mr Swinney.

## Legal Profession and Legal Aid (Scotland) Bill: Stage 1

**The Deputy Presiding Officer (Trish Godman):** The next item of business is a debate on motion S2M-4713, in the name of Cathy Jamieson, that the Parliament agrees to the general principles of the Legal Profession and Legal Aid (Scotland) Bill.

14:57

**The Deputy Minister for Justice (Hugh Henry):** We want a Scottish justice system that is fit for the 21<sup>st</sup> century. It must meet the changing needs of families and communities in today's Scotland. We want laws that meet the needs of our society and we need to recognise the high expectations that consumers have of public services. We also need to acknowledge the demand for accountability and transparency in the delivery of those public services.

The Legal Profession and Legal Aid (Scotland) Bill is yet another part of our modernisation of the justice system. It seeks to ensure that we build on the excellence of our legal services while responding to the demands of 21<sup>st</sup> century Scotland. By doing that, we will improve access to the justice system for everyone.

The bill proposes a number of significant measures. To improve the access that I mentioned, the bill will enable the Scottish Legal Aid Board to fund non-lawyers who have expertise in specialist areas. The bill already provides for those advisers to access case-by-case funding, and I am happy to confirm that at stage 2 we will introduce proposals for the board to provide block grant funding as an additional route. I am grateful to all the representatives from advice and information services who have given evidence supporting that change and who have talked with us more informally about how it would work. We have listened and believe that the additions to the bill will bring further improvements to how we meet unmet legal needs in future.

The bill also provides for new rights of audience in court. Section 42 paves the way for commencement of sections 25 to 29 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990. That will open up rights of audience in courts and rights to conduct litigation to members of professional organisations other than legal professional bodies, subject to a rigorous vetting process. That will increase access to justice and increase competition.

As well as improving public access to legal services, it is right that the bill should reflect public demand for the accountability and transparency

that I mentioned. We want complaints against the legal profession to be dealt with quickly and we want lawyers to deal with complaints at source wherever possible. However, when dialogue breaks down and agreement is not possible, the public must have confidence that complaints will be resolved effectively and impartially. I acknowledge the efforts that the Law Society of Scotland and the Faculty of Advocates have made in recent years to improve the complaints system, but the idea lingers in the public's mind that, in investigating complaints against lawyers, the legal profession is neither impartial nor transparent.

The bill therefore provides for the creation of the Scottish legal complaints commission to deal with consumer complaints. Its board will have a non-lawyer majority, so consumer interests will be well represented at the organisation's heart. Appointments will be made by the Scottish ministers and the appointments process will be subject to oversight by the Scottish commissioner for public appointments, which will ensure that appointments are made on merit.

**Phil Gallie (South of Scotland) (Con):** Will the minister take an intervention on that point?

**Hugh Henry:** I will give way after I finish the next section of my speech, which is on the same issue.

We believe that our proposals comply with the European convention on human rights and will allow the commission to be independent, but we recognise the concerns that have been expressed. To underline our commitment to the commission's independence, we will lodge amendments at stage 2 to remove ministers' power of general direction in relation to the commission; to create a role for the Lord President in the removal of commission members; to provide security of tenure for commission members, who will serve a fixed term of four to six years; and to restructure the commission's decision-making procedures to ensure that formal determinations of complaints are made only by commission board members.

**Phil Gallie:** The question that I intended to ask about the ECHR has been answered, but other ECHR aspects arise, particularly in relation to the penalties that will be imposed on solicitors who have shown that they have not erred but who may have to pay a hefty price because of errant complainants. Is the minister convinced that the bill complies with every aspect of the ECHR?

**Hugh Henry:** That is a new ECHR argument that has not been raised with me before, but we are convinced that the bill is ECHR compliant. Ministers have satisfied themselves and the Presiding Officer has been satisfied that the proposals are ECHR compliant. The further measures that we have taken will provide further

confidence that the bill is completely ECHR compliant.

The complaint-handling reforms that are proposed in the bill have their roots in the recommendations that were made by the Justice 1 Committee in the previous session, but some of the changes that I have mentioned and some other changes build on work that was done by the Justice 2 Committee, which I thank for the thorough job that it did and the report that it produced.

The paper "Reforming Complaints Handling, Building Consumer Confidence Regulation of the Legal Profession in Scotland Consultation" attracted more than 500 responses and our consultation paper "Advice for All: Publicly Funded Legal Assistance in Scotland—The Way Forward" also attracted a significant number of responses. From the responses that we received, it was clear that lapses from high professional standards—however rare—could have severe consequences for people. We concluded that an independent system was needed not only to resolve disputes but to achieve consumer confidence. The bill will therefore empower the commission to investigate and adjudicate on complaints about service that can include an element of negligence. The commission's services will be free of charge to complainers.

The bill will increase the financial compensation that is available when a complaint is upheld. The maximum compensation level for service complaints will rise from £5,000 to £20,000. I stress that the new level is a maximum award and not an average payout. It is intended to cover cases of significant loss that was caused by negligence.

The bill will leave the investigation of conduct complaints with the professional bodies but will give the commission some oversight powers. The bill will also introduce financial compensation of up to £5,000 for conduct complaints. That strikes a balance between recognising the professional bodies' role in regulating their members and boosting public confidence in their regulatory procedures.

**Mr John Swinney (North Tayside) (SNP):** Will the minister give way?

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Will the minister take an intervention?

**Hugh Henry:** I give way to Mike Rumbles.

**Mike Rumbles:** I am aware that the maximum compensation level rose from £1,000 to £5,000 recently. Why did the minister choose to increase the level to £20,000? I have been asked that many times.

**Hugh Henry:** The £5,000 figure that I mentioned in my latter point is the proposed new maximum compensation for conduct complaints. The £5,000 that I mentioned earlier, which is the figure to which Mike Rumbles refers, is the current maximum compensation for service complaints. We want to achieve a situation in which the commission can deal with as many complaints as possible without having to resort to court action. That provision in the bill reflects the nature of many of the complaints that are received. The bill provides for the potential to award a significant amount to cover loss and injury, but the amount proposed is not, in today's world, out of order with what people might be expected to pay. When I consider the Financial Ombudsman Service, I am confident that the new commission will use those powers appropriately.

Returning to conduct complaints, I can also say that, in addition to the other points that I have made, we will increase the non-lawyer membership of the Scottish Solicitors Discipline Tribunal to 50 per cent.

**Mr Swinney:** Will the minister give way?

**Hugh Henry:** I will just make this final point before giving way to Mr Swinney.

The funding for complaint handling will continue to be provided by the legal profession but with a two-levy system of funding: an annual general levy will be payable by all practitioners and a specific levy will be payable by practitioners when a complaint is made against them. Having listened to the evidence presented to the Justice 2 Committee regarding the complaints levy, we will lodge an amendment at stage 2 so that the levy will apply only to upheld complaints. That amendment will reinforce the polluter-pays principle.

**Mr Swinney:** On the handling of conduct complaints, the minister said that the commission will have a power of oversight in relation to conduct complaints that have been handled by the professional organisations. Section 16(2)(6) of the bill provides that

"the Commission may direct the professional organisation to comply with that recommendation"

if the commission is dissatisfied with the way in which the professional organisation has handled a conduct complaint. Is that power greater than the power that the Scottish legal services ombudsman has had? What does the minister envisage the commission being able to do in such circumstances?

**Hugh Henry:** That is a fairly substantial question, but I do not have time to go into the details to do it justice. I will write to Mr Swinney on that issue and copy the correspondence to the Justice 2 Committee for its information.

The legal aid provisions in the bill are part of a broader programme of work to improve the delivery of publicly funded legal assistance. The Scottish Legal Aid Board has worked in partnership with local authorities and advice providers to explore different models for delivering advice. The board has also shown its willingness to explore new methods of working to improve access and to achieve better use of scarce public resources. The Public Defence Solicitors Office is an example of that. At present, I am considering proposals—this relates to a point that Jim Wallace raised earlier this afternoon—to expand the network of PDSO offices. Such an expansion could, I believe, allow the provision of advice and representation to people at a number of further locations throughout Scotland. In doing so, I will bear in mind the point that Jim Wallace made about Kirkwall.

**Maureen Macmillan (Highlands and Islands) (Lab):** As the minister knows, the public defender's role in the criminal legal aid system has been very successful in Inverness. Does he recall the correspondence that I have had with him about the difficulty of accessing civil legal aid representation by solicitors in rural courts in the Highlands? Will the minister consider piloting a service in the Highlands to provide a publicly funded civil legal aid practitioner so that we can ensure that people have representation in courts where no private firm of solicitors is available?

**Hugh Henry:** Maureen Macmillan has pre-empted the next point in my speech. I recognise the concerns that she, along with Jim Wallace and others, have raised. On a number of occasions, Maureen Macmillan has written to me about the problem that exists in remote rural areas. Today, I am pleased to announce that the Scottish Legal Aid Board will develop a similar network of publicly employed solicitors to provide extra help to the public in matters of civil law in areas where there may be unmet demand. Such a development represents a major step towards our goal of having a well-planned system in which people get the advice they need from whoever is best placed to provide it.

**The Deputy Presiding Officer (Murray Tosh):** Minister, I can give you another couple of minutes.

**Hugh Henry:** A great deal of work has also been done to improve publicly funded advice in Scotland. A number of changes have been made to the legal aid system to reflect and underpin reforms such as those dealing with High Court procedures. We are considering proposals for the extension of eligibility for civil legal aid. We have also authorised the Scottish Legal Aid Board to extend the payment period for instalments of contributions in civil cases, thereby making it easier for people on modest incomes to benefit from legal aid.

The bill proposes a package of reforms that is intended to promote high standards in legal services and to ensure access to those services for all of Scotland's people. I believe that the bill reflects the will of Parliament. More significantly, I believe that it serves the best interests of those whom we represent. I have pleasure in commending the motion to the Parliament.

I move,

That the Parliament agrees to the general principles of the Legal Profession and Legal Aid (Scotland) Bill.

**The Deputy Presiding Officer:** A number of members who wish to speak in the debate, according to my script, and who are present in the chamber have not pressed their request-to-speak buttons. I would be obliged if they would do so.

15:11

**Mr Kenny MacAskill (Lothians) (SNP):** I concur with a great deal of what the minister has said. It is important to put on record at the outset that Scotland has been well served by its legal system and its legal profession. This is the 21<sup>st</sup> century and we need to deal with the changed society that now exists, but we must recognise that our legal system has served us well for hundreds of years. It has had its faults and it still has its quirks, but in the main it has been good for us and we should take pride in it. The legal profession is often disparaged and an influx of comedy from the United States seems to have made it the butt of all jokes, but it is a profession in which I was happy to serve for many years. The legal profession in Scotland has had a few rogues and has made mistakes on occasion, but in the main it has served us well. People in the profession do a good job, regardless of the capacity in which they are operating, and Scotland benefits from them. That should not be forgotten.

However, the minister is correct to say that we live in a changed society. People have different expectations and we must change with the times. The question of complaints, in particular, has caused a great deal of angst. Previous committees, as well as the Justice 2 Committee, which is considering the bill, have addressed that issue. At one stage, the Law Society resisted change in the handling of complaints, but it now correctly accepts that that is required. I accept that in most instances the Law Society acted fairly and that people received good treatment, but there was a perception that that was not the case. Justice not only needs to be done, it needs to be seen to be done. The general public did not believe that they were well served when making complaints against solicitors, so change had to take place, irrespective of what was happening. We should welcome the fact that the Scottish Legal Aid Board has decided to deal with the issue

in conjunction with the Executive, instead of being dragged along kicking and screaming. We must work together.

I return to some points that were made yesterday about the role of the Opposition in the chamber. The Parliament is obliged to get the law right in this area. The minister is correct to say that we are trying to update the organisation of the legal profession. There are aspects of legal aid, both civil and criminal, that need to be addressed in the 21<sup>st</sup> century, and we intend to work with the Executive on those.

We support the general principles of the bill. Some matters have been raised with us by the Law Society and other organisations, all of which will doubtless have lobbied the minister in the first instance before turning to us. The minister has addressed some of those points and we welcome the fact that he has taken them on board. There are other matters on which we think action needs to be taken. The minister is correct to pay tribute to the Justice 2 Committee for its work, because it has given a great deal of consideration to those matters. It is important that we try to get right legislation that is not simply for the next four years or for the term of the Lib-Lab Executive but which creates a framework for the handling of complaints and for aspects of the operation of legal aid that will serve us for some time.

There are some matters of concern. We hope that the issue of the independence of members of the commission will be addressed to some extent by the concessions that the Executive has made and the amendments that it intends to lodge. Doubtless we will receive responses from others if they do not think that the changes are adequate. We can deal with those responses at that time.

It was appropriate for the Justice 2 Committee to raise the issue of who pays, as it has been of great concern to firms and members of the profession. It is iniquitous that if a complaint against an individual is not upheld, they should be required to pay. That is a sword of Damocles hanging over people. Solicitors will have problems paying for the operation and administration of the system and there will be no alternative for the profession but to meet the cost. However, what has been proposed is iniquitous and we hope that it will be addressed.

Distinguishing between service, conduct and negligence complaints is difficult and the subject was scrutinised intensely by the committee. In instances of overlap there will be times when the wisdom of Solomon will be required. Our position is that conduct, service and negligence complaints should be separated and we are glad that the Executive accepts that principle. However, there will be times when we will be required to leave it up to those who are entrusted with operating the

system to use their common sense to try to work out some practicalities. We cannot provide for every scenario in legislation.

We welcome the announcements about the provision of legal aid both in the bill and in the minister's speech today because it is a growing problem that we must address. We in Scotland must try to reach a consensual view on the matter; otherwise we will sleepwalk into disaster. We already have problems with the availability of dentists in this country, not simply in rural areas but in housing schemes and other areas in urban Scotland. There is a danger that we will wake up one day to find that there are no criminal or civil lawyers in rural parts of Scotland or in other areas, unless we make some changes. That is not to say that the changes will be easy or simple and we have a great deal of sympathy with the Executive.

The proposal to transfer legal aid in solemn proceedings to the Scottish Legal Aid Board is appropriate. The current system causes a great deal of angst among the general public because of the almost automatic provision of full legal aid to someone facing a serious criminal charge; there is no scrutiny of their income and they do not have to make any contribution. At the same time, the lady separated from her husband after a lifetime of domestic violence, trying to keep the children warm, clothed, fed and housed, faces a substantial bill. That is manifestly unjust and needs to be addressed. There is no simple way of charging and we need to provide for those who currently lose out. That problem cannot be addressed in the bill alone, however—at some stage, we have to consider the provision of services, although the minister is correctly tackling the issue by extending the scope of the bill to civil assistance.

The final thing that we must do was the subject of a written answer that I received yesterday. Although I appreciate how such a situation has occurred, those who do important work that can be dealt with only by qualified solicitors must be properly paid and not have to make up their complaints levy by doing marginal work such as photocopying and taking statements. When the Executive instructs a private firm of solicitors and a trainee or paralegal is paid at a higher rate than a legal aid lawyer defending in a terrorism or murder trial, there is something wrong. That must be tackled and cannot be addressed in the Legal Profession and Legal Aid (Scotland) Bill alone. However, we support the general principles of the bill and will work happily with the Executive to try to get things right for the 21<sup>st</sup> century.

15:18

**Margaret Mitchell (Central Scotland) (Con):** I confirm that the Scottish Conservatives welcome

and support the general principles of the bill: namely to improve the handling of complaints against legal practitioners in Scotland and to try to ensure better co-ordination of the delivery of publicly funded legal aid.

I will deal first with the provisions on legal aid and legal representation. The bill enables legal representation to be provided by a wider range of professional bodies, which is certainly to be welcomed. We also look forward to hearing more details of the extent to which the Public Defence Solicitors Office will be involved.

We support the provision to allow the Scottish Legal Aid Board to fund specialist advisers who are not lawyers. I am pleased that the minister recognised the clear and distinct administration and resource problems that would have been created by the provision of case-by-case funding and confirmed that it will be addressed at stage 2 with an amendment to add block grant funding and thus safeguard agencies' ability to concentrate on providing advice.

On the provisions to improve the handling of complaints against the legal profession, I share people's unease at the proposal to give the Law Society the dual role of being responsible both for promoting and for policing the profession. Criticism of such self-regulation has led to a move to co-regulation with a multilayered regulatory framework involving ordinary courts and various professional bodies. Despite that, the current system is still seen as being heavily weighted in favour of the practitioner.

As a result, the bill proposes the creation of a new independent statutory body, the Scottish legal complaints commission, which will have a non-lawyer majority and which will take over the Scottish legal services ombudsman's role in overseeing service complaints. I acknowledge that such a measure is intended to promote consumers' interests—indeed, that aim is at the heart of the bill. However, despite the minister's announcement of the amendments that he intends to lodge at stage 2, we still need clarity about the considerable powers that the bill will confer on the Scottish ministers.

Under the bill, a minister has the power to appoint or dismiss commission board members; approve the appointment of the chief executive; direct the commission on the appointment of employees and their terms and conditions, including their salary; change the commission's duties and powers—which, in itself, is a huge power; and direct the commission in the exercise of its functions.

The minister has said that he wants to establish a commission that provides a dispute resolution service independent of the legal profession.

However, we still need clarity over the crucial question whether the commission will be independent of the Scottish Executive. The powers that the current bill seeks to give the Scottish ministers will compromise the commission's necessary independence and, in fact, strike at the very heart of our democracy. That said, I am very pleased that the minister has partly acknowledged that point in the amendments that he intends to lodge, especially in the proposal to involve the Lord President of the Court of Session in appointments to the commission. Without its independence, the commission will not fulfil its intended role. Worse still, it will become almost a branch of the Scottish Executive.

Other amendments must be lodged at stage 2 to address legitimate concerns about provisions to deal with complaints about inadequate professional service. At the moment, the Scottish courts determine issues of fact and law in negligence. As other members have pointed out, the commission would take over that responsibility and would be able to order payment of compensation up to £20,000. Serious concerns have been expressed about whether such a provision complies with the ECHR, given that, despite the minister's assurances, it is unclear whether, even under the terms of his proposed amendment, the commission would be independent and impartial. Moreover, there is no external right of appeal if the commission upholds a service complaint. A more worrying prospect is that many firms that currently act for charitable organisations either free of charge or at reduced fees might decline such work for fear of being subject to Court of Session litigation from every member of those organisations.

The bill is well intentioned. However, despite the amendments that have been outlined today, I believe that huge question marks still hang over the commission's independence from the Scottish Executive and the limits on the access to free independent advice that the bill is intended to promote.

15:24

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** The relationship between an individual and his or her solicitor is very important. For many people, it will be a straightforward matter, but for other clients, it will affect their lives and livelihoods. For example, in family law, the relationship is often very personal, and when it breaks down, there needs to be, as the minister rightly said, an impartial and transparent mechanism for resolving disputes and, where necessary, determining culpability if there has been poor or inadequate professional service.

The committee received much evidence during its consideration of the bill's general principles and

I believe that we were able adequately to weigh support for the main aspects of the bill against some of the concerns about it. Of course, the issue is polarised between those who believe that every lawyer is a crook and those who argue that the status quo is perfectly fine and fit for purpose. The committee resolved that the current system—under which lawyers police themselves for service issues—is not fit for purpose. That is not necessarily a criticism of the dedication of the Law Society of Scotland, but a recognition that there is a strong case for reform.

We have accepted the bill's general principle of reforming the handling of complaints from people who believe that their solicitors provided them with inadequate services. Fundamentally, we believe that every effort should be made to resolve complaints at source. That has not been emphasised so far, but a fundamental point of the evidence from the ombudsman and others was that a system that solves problems through mediation—which is included in the bill—or early dispute resolution will be far more effective than a bureaucracy. Nevertheless, there are times when that cannot happen or when it fails, so we need to consider the practicalities of a new system and how it should operate.

I will comment on the organisational aspects of the proposals for a Scottish legal complaints commission, such as whether it should consider all complaints—service and conduct complaints—and, if not, how it should co-operate with the Law Society. I am happy that the commission will handle the complaints about service, which are about consumer issues by and large, and that complaints that are more about unfitness to practise because of personal conduct should remain with the profession.

Of course, there will be cases in which a single complaint has dual or multiple aspects that involve a service complaint as well as raise questions of conduct. It is important that there be clarity on such cases, especially as the proposed changes are designed to improve the system and make it more straightforward, rather than more confusing. Therefore, I am pleased that the minister has indicated that amendments will be lodged at stage 2 to address the committee's concerns, especially as compensation for an upheld conduct complaint will be up to £5,000 and for inadequate professional service will be as much as £20,000.

**Mr Swinney:** On the divide between service and conduct complaints, will Mr Purvis say a bit more about what he would expect to be in the amendments to provide the necessary clarity when the bill goes to stage 2?

**Jeremy Purvis:** I am happy to do so. In correspondence with the committee, the minister has indicated that there will be a duty on the

complaints bodies—the commission and the Law Society—to operate a clear protocol for handling cases. That can be drawn up only between the commission and the Law Society once the commission has been established. I am satisfied that it is the role of the Parliament and the minister to say that that should happen. It will be up to the commission, and it will be in its interest to ensure that the procedures are strong.

I will turn to a couple of other substantial areas. The proposed changes mean that many solicitors will stop offering legal aid services and that many solicitors will cease business for certain types of work in rural areas or for vulnerable groups. Also, the proposed maximum compensation award for IPS of £20,000 will mean that some solicitors will simply cease working altogether.

I deviated from the committee's majority view when it stated that it was satisfied with the bill's proposal for a levy on solicitors against whom a complaint has been made. The proposal that there should be a rough 50:50 split between a set levy and a complaints levy to fund the commission suggests that the complaints levy would raise substantial funds. The bill's accompanying documents suggest a levy of around £300. That raises the difficulty that, in a small number of cases, an individual might be stimulated to make a complaint against a solicitor that has no grounds but is above the threshold for a frivolous or vexatious complaint, which could stimulate the solicitor to offer the individual what they would term compensation of a sum less than the complaints levy.

While I welcome the minister's position that the polluter-pays principle will be adopted, I am concerned that if there is a 50:50 split in respect of funding for the commission and the levy is paid only by solicitors who have been found guilty, it might mean that the complaints levy is higher than is outlined in the accompanying notes to the bill, which could make the situation worse. I hope that the minister will acknowledge that there are genuine concerns, particularly among small solicitors and solicitors who operate in areas in which there has so far been a high number of complaints to the Law Society. That will be part of the discussions at stage 2.

**Bill Aitken (Glasgow) (Con):** Will Mr Purvis give way on that point?

**Jeremy Purvis:** I am anxious that I may be over time.

**The Deputy Presiding Officer:** You are over time. I should have called one minute, one minute ago.

**Jeremy Purvis:** I am grateful for that and for the fact that I cannot give way to Mr Aitken.

On the independence of the profession, we are rightly proud, as Mr MacAskill said, of the legal profession and system in Scotland. The minister's response to the concerns voiced by the committee and witnesses about the need for an independent tribunal, as the commission will be in some areas, is important. The committee will welcome the amendments at stage 2 and will consider them closely. In particular, we will consider their ability to make the commission an independent tribunal, with recourse to courts for appeal, which would fully satisfy the concerns about the ECHR. The bill is a good one. It will make our current system, which is by and large good, even better. That is why the Liberal Democrats support the bill's general principles.

15:31

**Mr David Davidson (North East Scotland) (Con):** I thank the clerking team for the enormous amount of work it got through, particularly in the early stages, when we received about 600 submissions in response to the call for evidence, all of which the clerks processed diligently and speedily. I thank also the Scottish Parliament information centre for its work to support the committee and the clerks. Of the 600 or so submissions, more than 30 came from individuals who had experience of the current complaints-handling system, which had not always proved to be to their satisfaction. I thank Margaret Ross, the committee adviser, who was a tremendous support and asset to the committee in helping it through some of the complexities of the bill. Finally, I thank all of the witnesses, especially the individuals who gave evidence, and the many people who have since written to the committee to comment on the stage 1 report, which has been circulated to members.

However, I am disappointed that the Executive response to the committee report was received only this morning, certainly by me. The committee report was lodged with the Parliament in June and it would have been extremely helpful if the committee had been able to consider fully and take advice on the contents of the Executive response. The committee will have to go straight into stage 2 without having had the chance properly to scrutinise the Executive response. The committee asked in the report that it should receive as much information as possible prior to stage 2 so that it could work collectively to make a really good job of the legislation, as Kenny MacAskill said.

From my brief reading of the Executive response, and from the minister's comments today, it is fairly clear that ministers are responding positively to some of the committee's suggestions, but the definition of negligence and

the separation of professional misconduct and inadequate professional service is still somewhat unclear. I am disappointed that little clarity was offered on the legal aid section of the bill prior to the minister's statements, because as other members will no doubt say, that is an important matter of concern to the public.

The minister intends to lodge more than 300 amendments—that is apart from any amendments that other members might lodge—and it is vital that the committee should have adequate time to consider them. This is an important bill, the fine details of which must be considered carefully. There is a need to establish consumer confidence in the new commission and processes, which must be equally fair to all who are involved in a complaint.

The committee welcomes moves to improve complaints resolution at an early stage. Most lawyers in Scotland operate without any complaints being made against them. Solicitors conduct around 1 million legal transactions in a year and of the 5,000 or so complaints that are made, only a small number require action. The committee wants to ensure that the Executive provides absolute clarity on the definitions of inadequate professional service and professional misconduct. Somehow, negligence, which is a grey area, must also be clearly defined. We asked for information on that prior to stage 2.

The Faculty of Advocates, the former Scottish legal services ombudsman, academics, the Scottish Consumer Council and the Scottish Solicitors Discipline Tribunal gave us evidence on how difficult it might be to separate conduct complaints from service complaints. As our report shows, the majority of the committee agreed with the proposed separation of complaints into those two categories. We recommended that arrangements should be included in the bill to deal with any disagreement between the Scottish legal complaints commission and the professions about how a particular complaint should be handled.

The committee asked for clarification of the rationale for the proposed maximum compensation levels of £20,000 and £5,000, although I acknowledge that the minister set out some of the reasoning behind that in the letter that arrived today and I am sure that we will get more details at a later date. The committee expects the commission to apply the same standards as the courts when assessing claims of negligence.

Some members have mentioned access issues. We took a great deal of evidence on the fact that smaller and rural practices may choose to do only certain types of work. Although we welcome the minister's comments on access to legal aid, there are still questions to be answered about how the issue will be dealt with when the bill reaches its final stage.

On the master policy and the guarantee fund, the committee received conflicting evidence about undue delays in the settlement of claims and the extent of the Law Society's involvement in the process. However, we received no objective evidence on that. Although the committee believes that the commission should have the power of oversight of the master policy and the guarantee fund, it notes that the commission's ability to take action will be limited to making recommendations.

The minister partly addressed ECHR compliance. The committee received differing legal opinion on whether the bill will be ECHR compliant, particularly in relation to independence and impartiality and the lack of a right of external appeal. The committee has great concerns about the arrangements for the appointment of members of the commission. Schedule 1 provides for Scottish ministers to appoint commission members and gives them the power to remove members and to direct some of their actions. The Executive was asked to respond to concerns about that. The proposal that the Lord President and the Judicial Appointments Board could be involved seemed to have been welcomed, but the minister has now suggested that the involvement of the Lord President would give the impression of professional control of the appointments system, even though he is regarded as being an independent person. I would like ministers to clarify their position.

We received varying legal opinions on an independent appeals mechanism. The committee agreed with the Finance Committee that the financial memorandum and its accompanying documents did not give sufficient detail on the commission's funding, the levies and the accountability of the financial process.

On behalf of the committee, I thank Hugh Henry for appearing to agree with the committee's views on the polluter-pays principle. We asked that legal aid should be based on a grant system and we welcome the fact that the minister seems to be moving in that direction.

It is vital that the Parliament sets up a robust, accountable, approachable and cost-efficient system that does not penalise the professions unduly, but which is fair to people who make complaints. The bill requires a significant amount of work to bring it up to the standard that the Parliament expects. We look forward to having sight of the minister's many proposed amendments. I make a plea for the committee to be given adequate time to consider those amendments fully so that it can complete its work correctly. In spite of those comments, the committee recommends that the general principles of the Legal Profession and Legal Aid (Scotland) Bill be agreed to.

**The Deputy Presiding Officer:** We come to the open debate. We can have speeches of six minutes.

15:39

**Gordon Jackson (Glasgow Govan) (Lab):** I suppose that I had better begin with a declaration of interest. In case members had not noticed, I am a member of the Faculty of Advocates and have at least a passing interest in the operation and efficiency of the Scottish Legal Aid Board.

Legal aid transfer seems okay. I have no problem with the idea of transferring solemn procedure cases to the board. That said, I am not sure what has driven the transfer or what the problem was. I say to Kenny MacAskill that, under the system, people were refused legal aid on the ground of means. In some people's view, not many or not enough were refused, but it certainly happened. I was worried about the change from the point of view of timescale and the work that is done on certain cases, but the board has told us that that does not pose a problem, and I must take its word on that.

This morning, I read the handout that the Scottish Legal Aid Board gave us. Reading between the lines, I was struck by a sense that the board thinks that, at this stage, the bill does not go far enough. For example, it points out that there continue to be problems with the existing scheme, in that some cases are not properly funded. One matter of interest to me, which the minister might respond to, is the idea of services being provided by, as they are being called, non-lawyer advisers. The board wants that to be done through grant aid instead of by allowing practitioners direct access to the existing scheme. I am not sure why ministers thought that that suggestion was not the best way forward, so perhaps they could tell us.

In general terms, the legal aid provisions in the bill are absolutely fine. Indeed, unlike my colleagues in the Faculty of Advocates, who want none of it, I have no real problem with the new complaints procedure. My colleagues think that they should be left to do it all themselves—although in fairness to the faculty, its proposals include an appeals structure; it was not suggesting that it would have the last word.

In some ways, I understand the argument that the Faculty of Advocates is making. In defence of my brothers up the road—

**Jackie Baillie (Dumbarton) (Lab):** No sisters?

**Gordon Jackson:** I cannot remember; it is so long since I have been there.

From personal experience, I know that the system is robust. The idea that somehow—and this should be said publicly—lawyers are soft and

cover up for one another is not right. I am aware that we are talking about public perception, but I put on record the fact that anyone who thinks that lawyers are light on one another should think again.

I turn to the worry that the bill is yet another encroachment into judicial and legal independence. In *The Scotsman* today, I read that former judges—members will not have to go far to guess who they are—

“mounted an unprecedented attack on ministerial plans to overhaul the way complaints against lawyers are handled, branding them a threat to the independence of the law and an attack on democracy itself.”

Perhaps that is a little overstated, although the attack could not be called unprecedented. Whatever else the bill will do, the situation is certainly not as serious as that. I do not want to make light of my colleagues' worries. They worry about losing their proper independence.

At the end of the day, I have come to the view that the matter is one of public perception, as others have pointed out. However, whether the public will ever be satisfied is another matter. Undoubtedly, the bill will not satisfy the people who are campaigning outside the Parliament today. That will always be a problem.

I can support some of what is being done in the bill. In particular, I can support it because of the attempt that has been made to divide conduct from services. There will need to be discussion about how that is done, as it is not easy to say which category a complaint falls into, particularly given that complaints are often made in a scattergun way. People tend to say, “I have lost the case. I am going to complain about everything that happened.” Complaints handling will never be easy; nevertheless, the change is a good one, and I give some support to a new, independent board that will deal with inadequate services.

I was going to talk about some worries I had about the bill, but the minister described several proposed amendments and, like other members, I had to take out my pen and strike out most of my speech—that is one of the reasons why I have wittered on in the way that I have. It would help us to know in advance that we would not have to make the speech that we intended to make.

There were real worries about the proposed levy, some of which remain. It is right that if a complaint is not upheld, no levy should be paid. However, solicitors who operate in small or single-solicitor firms in tough areas are genuinely worried about the proposal. I fear that they might stop taking on the work that they currently do almost for nothing—why should they take the risk? They might avoid contentious work and difficult clients. Most lawyers can tell as a client comes through

the door whether the person is likely to complain if things do not go well. I foresee problems in that regard.

I think and hope that the proposals will work in practice. The courts will ultimately have to decide what the legislation means in test cases. The Presiding Officer is telling me to be quiet, so I will finish. In general, I welcome the proposals in the bill.

15:46

**Mr John Swinney (North Tayside) (SNP):** I hope that one of the consequences of the discussions that Mr Jackson had with his party during the summer will be that we hear more such speeches in the Parliament in the months to come.

I owe my interest in the bill to the experiences of constituents who have found the handling of complaints against solicitors difficult to endure and have had many aspects of their lives consumed by the pursuit of complaints. I have personally never had any difficulty in dealing with a solicitor and I have always been on the receiving end of good service, so I am speaking about the conclusions that I have reached from dealing with constituents in the nine years during which I have been an elected member of one or other of two Parliaments.

The bill's purpose is to improve consumer confidence in the legal profession and in the handling of complaints, which is undoubtedly necessary. The Justice 1 Committee tried to address the matter in the first session of the Parliament and made some—but not enough—progress.

I was struck by a comment that the chief executive of the Law Society of Scotland made in an interview in *The Scotsman* on 15 August. He said:

"The Scottish legal profession is held in phenomenally high esteem—everywhere except Scotland."

We must tackle that problem and I hope that the bill will be successful in doing so. My comments are designed to help the process, so that we do not have to revisit the issue in a few years' time because the bill did not go far enough.

Broadly, I welcome the bill, the Justice 2 Committee's report and the comments that the Deputy Minister for Justice made in response to the report. I put on record my thanks to the committee for being so accommodating of my presence as an interested observer of the committee's deliberations during the past few months. I am sure that there will be more of that to come. I also warmly pay tribute to both the Minister for Justice and the Deputy Minister for Justice, who remained true to their word after

giving commitments a considerable time ago to introduce legislation and reflect on the issues. I make those remarks in the spirit of the new politics that Mr MacAskill encouraged us to embrace during yesterday's debate, but also in the hope that Mr MacAskill will forgive me, because I am about to disagree with my party's front-bench position, which has been set out during this debate.

My remaining difficulty with the bill concerns the separation of conduct and service complaints, for two reasons. First, I was struck by some of the evidence that the Justice 2 Committee heard from members of the public who had been affected by such issues. They said that complaints normally start as service complaints but inevitably end up as conduct complaints. In such a context it will be almost impossible to establish a thick line between conduct and service complaints. Much of the difficulty of resolving problems will hinge on that point—although Mr Purvis made a fair comment in response to my intervention on that point during his speech.

**Jeremy Purvis:** Mr Swinney will recall the evidence that Professor Brown, the Scottish public services ombudsman, gave to the committee. In response to a question that I put to her, she agreed that the public need to be confident that the system will operate effectively, but do not necessarily need to know the details of how the complaint will be processed. Does Mr Swinney agree that that is the more substantial point about public confidence in the system?

**Mr Swinney:** That is a reasonable point. Obviously, we will discuss the issue in due course at stage 2, but I draw Mr Purvis's attention to the comments of the former Scottish legal services ombudsman, Mrs Costelloe Baker, who said:

"The split between service complaints and conduct complaints confuses the profession and it certainly confuses service users and people who come into contact with the profession ... The split lengthened the process, but it also created confusion for complainants about when the system had ended and when they would get a response to their complaint."—[*Official Report, Justice 2 Committee*, 16 May 2006; c 2375-76.]

In that respect, I found her evidence to be powerful and worth listening to.

**Gordon Jackson:** Is the point not that the civil courts will eventually be the backstop? We should not lose sight of that. It is inevitable that they will judicially review decisions; problems of definition will then become much clearer. The courts themselves will lay down clear definitions for us. Is that not better than allowing everything to be dealt with in one way or the other?

**Mr Swinney:** To allow that to be the case, one must be able to get one's case into court and have it determined. In my experience, it is often difficult

for people who are involved in such situations to get their case into court by having a solicitor who is willing to encourage the process. I could bring to the Parliament's attention evidence that would substantiate what I am saying, but I do not have time to present it today.

I intervened in the minister's speech to try to get a feel for how far the Government is going in section 16 of the bill on the commission's power of oversight when it is dissatisfied with how the profession has handled a conduct complaint. If the minister can give me a substantive answer to that, it may allay my fears about the split between service and conduct complaints. Section 16(6) states:

"the Commission may direct the professional organisation to comply"

with a recommendation when it is concerned about the handling of a conduct complaint. If an explanation by the minister goes as far as I would like it to go, the concerns that I have raised may be addressed. I am concerned that as a result of the service and conduct split, games of ping-pong that involve people's lives will take place, the process will become elongated and the type of issues with which we are currently wrestling—such as complaints taking years to resolve—will result. I am concerned that cases will go from the commission to the professional organisation and back again and that the complainant will be exhausted and bewildered by the process.

The Law Society has a difficult record in handling conduct complaints. I draw members' attention to a news article that appeared on 23 August 2006, which stated that unsatisfactory conduct complaints had been struck from the records of more than 250 solicitors because the Law Society had not gone about things in the right fashion. I caution members about allocating power to the Law Society, whose record on handling such issues is not impeccable.

15:53

**Patrick Harvie (Glasgow) (Green):** First, I want to address the central point of the bill—the creation of the new commission. That members throughout the chamber view the new commission as a positive additional safeguard is to be welcomed. We all hope that it will build trust in the legal profession by virtue of its independence.

It is interesting that the proposal for a new independent commission has been seen as no great drama, but it is a shame that that has not been the case with respect to other commissions, notably the Scottish human rights commission. I agree with the Justice 2 Committee about the creation of the Scottish legal complaints commission and with paragraph 87 of its report on

the bill, which says that concerns about the finance of a commission can be addressed by "regular auditing" and "robust financial accountability". Such things are achievable. They are not rocket science. I hope that members of all parties come to recognise that such things can also be achieved with other commissions.

There appears to be a case, on the surface, for the commission to handle all complaints. It would be wrong to dismiss that out of hand. However, I suggest to people who take that view—I note some dissent on that issue in the committee's report—that it is worth seeing how the system works in practice with the current scope before looking again, some time down the line, at whether the correct balance has been struck. I have sympathy with the view that the profession has a legitimate role in setting and protecting its own standards of conduct, which can be seen as an important aspect of the profession's independence.

As for so-called hybrid complaints, which are not clearly one thing or the other, I again compare the situation with that of the Scottish human rights commission, which will take complaints on human rights grounds when they are on devolved matters, but will have to deal with another commission—the commission for equality and human rights—when they are on reserved matters. There will clearly be hybrid complaints on human rights grounds, and a reasonable way of working can be established between the two human rights commissions. That is probably the case in this situation as well.

**Stewart Stevenson (Banff and Buchan) (SNP):** On a point of fact, I understand that the Scottish human rights commission will not take individual complaints.

**Patrick Harvie:** The Scottish human rights commission will deal with devolved matters, which can be dealt with by the CEHR only if they also involve reserved issues. I am making the comparison to show that a way of working can be established. I accept the minister's position, which he made clear to the committee, that it will be for the legal complaints commission itself to determine how hybrid cases will be categorised.

I am pleased to see some emphasis on mediation in the bill. I welcome the fact that all sides appear to recognise the value of mediation, that it must be a voluntary process and that mediators' independence from the commission is important.

One of the most problematic aspects of the bill is the complaints levy. I welcome the fact that the minister has made it clear that it will be changed at stage 2, but I still find it bizarre that it was introduced, as it seems guaranteed to provoke a defensive reaction. To force individuals to pay

simply because a complaint has been raised, regardless of its merits, seems extraordinarily unfair. Would we place that expectation on people in any other walk of life? Would we place such a burden on police officers, so that a police officer would have to pay if a complaint were made against them? Would we place such a burden on ourselves, as MSPs, so that we would have to pay for the Scottish parliamentary standards commissioner to investigate complaints against us, regardless of their merit? I do not think that we would. I am, therefore, surprised that such an approach was even suggested in relation to complaints taken to the Scottish legal complaints commission.

As for the impact of the complaints levy on small firms in general when complaints are upheld, I hope that it will not be a harsh, punitive system. We should aim for a recognition of mistakes having been made and a resolution to the complaint, not a punitive response, unless problems are repeated or solutions are persistently ignored.

The independence of the commission—and, by extension, the independence of the legal profession—was one of the most contentious issues, and rightly so. The Justice 2 Committee was right to highlight the concerns that exist and to ask the Executive for a response. That response, and the amendments that the minister has said he will lodge at stage 2, are an implicit acknowledgement of the fact that the bill as introduced took the wrong approach. I do not endorse the more extreme reactions, such as citing situations in Zimbabwe and the like, but legitimate concerns have been raised. I urge the committee to allow itself the time that it needs in the coming weeks to consider carefully all possible solutions to the problems before the bill returns to the chamber.

In general, I welcome the bill, especially the provisions relating to the legal profession. However, opportunities have perhaps been missed in relation to legal aid. Like Citizens Advice Scotland, I am concerned that the bill will only marginally increase the availability of legal advice. I hope that, when we see the bill at stage 3, significant improvements will have been made.

16:00

**Jackie Baillie (Dumbarton) (Lab):** The Justice 2 Committee, which was charged with scrutiny of the Legal Profession and Legal Aid (Scotland) Bill, heard evidence from a wide spectrum of people. Yes, we heard from the legal profession, but we also heard from those who have had a less than desirable experience at the hands of the legal profession. Some said that the bill goes too far and others said that it does not go far enough, and

some of that debate has been replayed today in the chamber, but all broadly welcomed the provisions in the bill.

We need to remember the context. People were increasingly unhappy about how complaints were dealt with, about the time taken and about the perception of vested interests. That led to accusations of bias, which generated the very lack of trust and confidence in the system that we are debating today. We have heard some examples—thankfully few, but they are equally unfortunate—of cases in which people were failed by their legal representatives.

I recognise—and it is worth putting on the record—the changes that the Law Society of Scotland made in recent times and, indeed, the significant improvement to its complaints process, but in many respects it was too late, because the damage was done. Confidence was not restored and, given that lawyers continued to police themselves, one wondered whether we could ever reclaim the required degree of confidence.

For me, the Executive's bill is very much about restoring confidence and ensuring that we have a system that people trust. I welcome the creation of an independent complaints commission— independent of the Executive and the Law Society—that will deal with complaints fairly and transparently and make decisions in which we can have faith.

I want to focus on two issues in relation to the commission before I move on to the legal aid aspects of the bill, but before I do that I turn to my learned colleague Gordon Jackson and remind him of the females who did indeed come before the committee. He might recall the name of Caroline Flanagan, the president of the Law Society. The last time I looked, she was female. Secondly, giving evidence on behalf of the Faculty of Advocates, no less, was Valerie Stacey. The last time I looked, she was the vice-dean, and female too. Let that refresh Gordon Jackson's memory.

I move on to deal with the issue of levies. I accept the need for a general levy to contribute to the commission's running costs—it is appropriate—but the committee had genuine concerns about the complaints levy and the fact that it would be applied irrespective of outcome. The committee strongly believes that the levy should apply only if the complaint is upheld. In other words, we propose a system where the polluter pays. I am pleased that the minister has acknowledged the committee's concerns and will lodge amendments at stage 2 so that the levy will be payable only when a complaint is upheld or there is a settlement.

I turn to the compensation ceiling of £20,000, which is, of course, in addition to the refund of

fees. I listened carefully to the debate. I am persuaded by the proposal to extend the definition of inadequate professional service to include negligence—I have no difficulty with that whatsoever—but I am unclear about the rationale for setting the maximum at £20,000. We have only just changed it—in April 2005—from £1,000 to £5,000. I understand that the Executive has spoken to the lead insurers under the master policy and noted the operation of the Financial Ombudsman Service, but I still think that the figure is arbitrary and that it does not reflect the position in Scotland. Undoubtedly, the debate will continue at stage 2. I am persuaded of the principle, but I am not convinced that we have arrived at the right figure.

**Margaret Mitchell:** I am interested to hear that the member has no problem with the inclusion of negligence in the definition of inadequate professional service. Will she elaborate on that? I think that there is a definite problem with that, which needs to be sorted out.

**Jackie Baillie:** It is very simple. I appreciate that the Tories might not get this, but access to justice and enabling people to get a degree of resolution without recourse to the courts are things that we in this part of the chamber are promoting.

It is fitting that Margaret Mitchell introduced this point, because the most substantial part of the bill is about improving access to justice. I am delighted by the announcements that the minister made today, which will make a practical difference in providing justice for all.

The bill as drafted would create case-by-case funding for non-solicitors, which would result in means testing of clients and the bureaucracy of individual application forms and would, at the end of the day, have a marginal impact on increasing the availability of quality advice. However, the deputy minister has acknowledged the need to deliver a step change in access to justice. His promise to amend the bill at stage 2 to provide grant funding is welcome, as are his comments about publicly funded defence for civil cases as well as for criminal ones, which will tackle unmet need. Civil justice provision must be based on need, not demand; it should be client centred rather than institution centred; and it must lead to greater empowerment for all those whom we were elected to represent. Those steps will tackle disadvantage through the provision of early and easy access to justice.

The deputy minister set out a positive course of action, with a series of announcements to the Parliament. Unlike my colleague Gordon Jackson, I would be happy to rewrite my speech, provided the minister keeps on that course.

16:05

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** In the 21<sup>st</sup> century it is right and proper that we should have an independent legal complaints commission. Like John Swinney, I pay tribute to the justice ministers for introducing the bill. I have not been so keen on some of the other bills that they have introduced, but the present bill is absolutely the right way to go and is long overdue.

I am pleased that all members seem to accept that self-regulation is not appropriate for the legal profession in the 21<sup>st</sup> century. We must have a fair, open and transparent system that is also seen to be fair—perceptions are all-important. As a constituency MSP I, like many other MSPs, have received numerous complaints about the legal profession over the years. It is difficult for individuals to accept that the legal profession is involved in self-regulation and the handling of complaints. John Swinney said that he knows constituents who have become consumed by the complaints process because they do not see justice in the system. The bill attempts to put that right.

I was impressed with John Swinney's speech this afternoon. Like him, I feel that it will be difficult to divide conduct complaints from service complaints. Like the majority of non-lawyers who gave evidence to the Justice 2 Committee, I believe that the new commission could deal with both types of complaint. We have heard about the difficulties in separating the two. It has been suggested that the commission and the Law Society can sort out the matter between themselves. However, unlike Patrick Harvie, I do not think that it is a good idea to see what happens and then come back to the matter in the future. The pressure on legislative time is great these days, and we have an opportunity to get the bill right now. We have a duty to do so when we introduce a bill to change such a system.

It is a fact that, when a complaint is lodged, no one knows for sure how it will turn out. What might be considered a service complaint could end up as a conduct matter and vice versa. Members of the Scottish Parliament have a code of conduct, but when we set up the independent Scottish parliamentary standards commissioner we did not separate conduct and service matters; instead, we told people that complaints should be made to the independent commissioner and the matter would be taken from there. We all know that it is not easy to decide whether a complaint is about service or conduct. The feeling that, despite that problem, the Law Society and the commission will be able to sort out the matter after we have passed the bill is not good enough for us as legislators. We should consider whether, as I believe, we are making life more complicated than is necessary.

One reason why I wanted to speak in the debate was that, last Monday, David Davidson and I met a group of lawyers in Stonehaven in my constituency. They raised serious concerns about the bill, but the deputy minister addressed those in his speech, so I am delighted that I do not have to raise them again—I have put lines through that part of my speaking notes. I am pleased that the ministers have addressed those issues, particularly those about rural areas, which Maureen Macmillan mentioned. In my area, the bill as it stands would make it difficult for lawyers to take on civil legal aid cases. I welcome the announcement that that is to be addressed. I praise the ministers for their reaction to the debate so far.

16:10

**Colin Fox (Lothians) (SSP):** Such is my dedication to the Justice 2 Committee and to the Legal Profession and Legal Aid (Scotland) Bill that, while other members have been sunning themselves this summer, I have been investigating Queen's Counsel and solicitors up close in the Court of Session for the past three months.

The Executive is right to have introduced the bill in response to the overwhelming demand from the public for a legal complaints system in which they can have faith. As everybody knows, the current self-regulatory procedure has been subject to widespread criticism. Many people see it as lacking in transparency and accountability. As things stand, the Law Society of Scotland and the Faculty of Advocates deal with the complaints made against 11,000 solicitors and 300 advocates by investigating matters themselves. As a response to the widespread criticism, the Executive carried out a consultation. The public's preferred option—to have a wholly independent legal complaints commissioner dealing with all complaints—was not one of the options, unfortunately. That consultation was thus inherently compromised, and so is the bill, I fear.

As many members have already said, the self-regulatory system is seen as lawyers protecting lawyers. It does not enjoy the necessary confidence of the Scottish Consumer Council, for example. In its evidence on the system, the council supported the aim

"to put the users of legal services at the heart of regulatory arrangements".

Although complainants who are unhappy with decisions that have been arrived at can seek redress by approaching the Scottish legal services ombudsman, that route is seen as both cumbersome and toothless. Mr Swinney referred to the evidence of Linda Costelloe Baker, the outgoing ombudsman. Her remarks reveal frustration with the bill's inability to take fully on

board the public's criticisms. She said that the remit of the Scottish legal complaints commission will be limited to addressing complaints of poor service, that the rights of advocates and solicitors to self-regulation will continue where they should be scrapped, and that the Scottish legal complaints commission should be the regulator of adequate practice in the profession. The bill suggests that we move from self-regulation to partial co-regulation, replacing the legal services ombudsman with a Scottish legal complaints commission while, by and large, leaving lawyers to continue to regulate themselves.

Many members have used the debate to highlight the problems with the distinction between conduct and service complaints. In many ways, that goes to the heart of the bill. The suggestion is that complainants will approach the Scottish legal complaints commission for consideration of their case, and it will decide whether the case is about the service that legal practitioners have provided or about their conduct as legal advisers. Service complaints—for example, where a solicitor has not sent a letter or replied to a call timeously, or has failed to provide basic administration to an acceptable standard—will be considered by the commission, via a nine-person committee with a majority of non-lawyers. On the other hand, conduct complaints, regarding negligence or unprofessional representation, will continue to be the preserve of the Law Society or of the relations committee of the Faculty of Advocates. Although the verdict will be subject to scrutiny by the legal complaints commission, such complaints will essentially remain in house.

The bill's division between service and conduct complaints is a replica of the system that the Law Society currently operates. The bill has come under a great deal of scrutiny regarding that aspect. There have been many critics of how we are handling the distinction. The Faculty of Advocates selflessly concluded that it was better to leave it all to it. Many members have rightly highlighted the many difficulties with the proposed separation. We fear that that could lead to confusing and difficult practical arrangements. That is why I dissented on that part of the Justice 2 Committee's report.

**Gordon Jackson:** Will the member take an intervention?

**Colin Fox:** I do not know if I will get the time—everybody else could blether for hours—but I would be happy to take an intervention.

**The Deputy Presiding Officer (Trish Godman):** You may make a brief intervention, Mr Jackson.

**Gordon Jackson:** How would Colin Fox propose that non-members of a profession deal

with professional misconduct? For example, the British Medical Association looks at doctors' professional misconduct robustly with lay members. As the Faculty of Advocates representative pointed out, laypeople are involved in that and their input is extremely important. How does Mr Fox think that people who are not in a profession can deal with professional misconduct?

**The Deputy Presiding Officer:** I guess that that was brief.

**Colin Fox:** I am grateful for that intervention—it was almost longer than my speech—but it is a red herring. The Scottish legal complaints commission will contain lawyers. Legal briefs will be involved. Conduct complaints could be heard by a committee with a five-to-four majority, so there would be four lawyers. It is a red herring to say that no legal expertise would be close to hand.

No one is suggesting that every tuppenny-ha'penny complaint should be handled by the commission—far from it. As others have rightly said, it is about recourse whenever those complaints cannot be sorted at source.

The Justice 2 Committee received a great deal of evidence to show that there is huge unmet demand for legal advice in this country. As Gordon Jackson knows, the cost of accessing even fairly basic advice is prohibitive to many, therefore the bill's provisions for widening access to low-level advice and legal assistance are welcome. I draw the minister's attention to paragraph 233 of the stage 1 report, which highlights the need to commence immediately sections 25 to 29 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990. That would mean more choice for consumers in legal representation. The fact that the provisions have not been commenced in 16 years is unacceptable. I hope that the Executive will honour its commitment to us to commence them in 2007.

The Scottish Socialist Party will support the bill at stage 1, even though we see it as only a half-hearted step in the right direction. In the long run, as Mr Swinney has said before, the fear is that the bill might fail to satisfy a public who in this day and age are more democratically demanding and more determined to have accountability and will not accept lawyers investigating lawyers any more than the police investigating the police or doctors investigating doctors. We will have to see.

16:17

**Stewart Stevenson (Banff and Buchan) (SNP):** We should not imagine that this issue of principle has arisen in recent times. Some 2,000 years ago, the Romans asked the question, "Quis custodiet ipsos custodes?"—who guards the guards? In essence, that is the principle that we

are discussing today. As it has taken 2,000 years to get to where we are, it is likely that we will not fully resolve the issue.

Nonetheless, an effort has been made. It is an effort that we in the SNP commend, while continuing to be engaged in addressing the details. I particularly welcome Hugh Henry's comments in his opening remarks, which addressed many of the core concerns from practitioners that, like other constituency members, I have had in my in-tray. In particular, I received a letter in the past week from the dean of the faculty of procurators for Peterhead and Fraserburgh. He pointed out that in that area—which is a substantial part of my constituency, although not quite all of it—only two firms currently do civil legal aid cases and that any reduction in that number would be pretty catastrophic to the provision of services.

Like other members, I have a constant stream, if not a flood, of people coming to my office because they have the fallacious idea that because I occasionally indulge in legal fisticuffs in the committee room with the Deputy Minister for Justice—who, like me, is not legally qualified—I can give them free legal advice. They are half right, as I do not charge for the privilege, but the other half is highly dubious, and I am always careful to point that out to them. Equally, I often find myself being asked to find someone a lawyer. Of course, that is dangerous. I am always careful to give people at least three options so that they make the choice. I do not tell them which one to go for, because sure as hell they would be back to blame me at the end of the day. The relationships between the legal professions and their clients are complex, and I hope that we will develop and improve them.

Like others, I recognise that not all complaints are well founded. For a period, my family lawyer was top of the list that Scotland Against Crooked Lawyers compiles. I did not understand that, but I felt disappointed as he moved down the list and was eventually relegated from it, because the list provided an excellent opportunity to tease a highly professional man whose integrity I utterly respect—as I do almost all the lawyers whom I meet. However, I have met lawyers who must be dealt with, and we need a process for that.

Like John Swinney, I am concerned about the difficulty of teasing out a complaint and stuffing it in one box rather than another. As members, we inevitably have constituents at our surgeries who say, at the end of what we think is the case that they are putting, "And another thing," so that the case moves into another domain. Alternatively, when we examine the needs of someone who is elderly and infirm, we find that they relate to council activity, Scottish Parliament care

obligations and social security, which is Westminster's responsibility.

Problems do not fit into boxes just because we have created boxes, so for the customer—the person with the complaint—we must deal with their complaint in a way that does not make it a problem for them, whatever box they try to put it in. The customer must feel that their problem is being dealt with justly.

**Jeremy Purvis:** Does the member agree that what matters is having the correct processes? If a complaint is about service from the police, it goes to the Independent Police Complaints Commission, but if the complaint relates to the police and criminal activity, it is right for it to go to the Procurator Fiscal Service. That should not confuse the public, because the system is correct.

**Stewart Stevenson:** Jeremy Purvis is correct. In paragraph 45 of its report, the Justice 2 Committee highlights the issues related to pursuing potential criminal activity by lawyers, so such considerations apply in the context of lawyers, too. The work is not easy; if it were, it would have been done a heck of a long time ago.

The minister's announcement on levies will be welcomed by my constituents and is extremely helpful. It is a tribute to him that he has responded so promptly to what the committee said.

I—and, I suspect, others—do not really understand how the right of third parties to complain will work. In my mind, that will be like a prisoner who jumps over a prison wall and is knocked down by a bus while running across the road suing the prison officer who failed to keep him in prison. We appear to be creating such indirectness. I hope that we are not making a rod for our own back.

Paragraph 28 of the report concerns some difficulties that sole practitioners might experience in dealing with complaints that come to their door in the first instance. I encourage the legal profession to think hard about that and the Executive to respond to any inputs from that source, because in rural areas such as the one that I represent that is and will be an issue.

16:23

**Mr Charlie Gordon (Glasgow Cathcart) (Lab):** I welcome the bill's general principles and the proposed establishment of the Scottish legal complaints commission. Like other members, I amended my draft speech in response to the minister's speech and the publication of the answer to an unreachd oral question from earlier this afternoon. I was not so happy to amend my draft because of that answer, but I will return to that.

Representations about the bill have been made to me by constituents who are practising solicitors and by solicitors who act for organisations in my constituency. The representations touch on the fear that the bill would lead to an increase in vexatious complaints generally and, as Stewart Stevenson just mentioned, especially by third parties, who might be aggrieved by the adversarial approach of solicitors who strive to represent their main clients' best interests.

The other concern that was expressed to me was that, given the increased financial risk that was associated with the original levy proposal, solicitors who act for community or voluntary organisations at discounted or nominal fees would withdraw from acting for such clients or impose full fees on them. I welcome the minister's stated intention to amend the levy provisions, but my concerns about the complaints from third parties remain and I would like to hear more about that issue.

However, I wish to focus on a particular type of complaint about some Scottish solicitors for which no independent means of seeking redress is currently available. Hundreds of Scots, including some of my constituents, complain that they were mis-sold endowment policies by solicitors in Scotland. As members will know, independent remedies for complaints about endowments that were mis-sold by the financial services industry are available via the Financial Ombudsman Service, which is a United Kingdom body that is accountable to another place. Complaints regarding the mis-selling of endowment policies that were sold by Scottish solicitors after 1 December 2001 can also be dealt with by the Financial Ombudsman Service.

Unfortunately, most of the complaints to which I refer relate to advice given by solicitors in Scotland prior to 1 December 2001. For such complainants, the only potential channel of redress is the not wholly independent Law Society. Furthermore, complaints that are upheld by the Law Society can result in a maximum compensation of £1,000. In contrast, awards of up to £100,000 are available under the UK system. Of course, the complainants to whom I refer could sue their solicitors on the ground of incompetent advice, but that is a risky, lengthy and expensive business for people who are already out of pocket.

Solicitors are not mere creatures of statute. They are general agents who are engaged to act for a client's affairs generally, not merely in specific identified transactions. In considering the plight of the complainants whom I have mentioned, both statutory and common-law obligations must be considered. It follows—in my view, at least—that this Parliament must take responsibility for addressing the issue. However,

in his now published answer to my question in section A of today's *Business Bulletin*, the minister states:

"It would be outside the legislative competence of the Scottish Parliament for the Legal Profession and Legal Aid (Scotland) Bill to seek to make such provision."

I accept the minister's answer as far as it goes but, as one who likes to solve people's problems if at all possible, I still ask whether there is anything that we can do without—this is the premise on which the minister's answer is founded—going down the dangerous road of retrospective legislation.

I believe that there is merit in the mechanism known as alternative dispute resolution, which is well established in, for example, the construction industry. I welcome the minister's view and I welcome the fact that dispute resolution has been mentioned in the context of the delegated powers of the new commission. I put forward this suggestion in the spirit of problem solving. I accept that we are best to steer clear of introducing retrospective legislation to address the grievances of this client group, but I think that it is still an open question whether we can provide a practical route to address the complaints of a group of people who, after all, are entitled to look to the Parliament for protection in what is an admittedly complex matter.

**The Deputy Presiding Officer:** We now move to closing speeches.

16:29

**Mike Pringle (Edinburgh South) (LD):** The stated aim of the bill is

"to put the users of legal services at the heart of regulatory arrangements".

The bill will ensure that the system is fully representative of the public interest and commands full public confidence. It will also make some initial improvements to the delivery of funded legal assistance.

The emphasis of the new arrangement is on securing a faster service that is more responsive to clients whose complaints cannot be resolved at source and on providing satisfactory redress in cases in which the commission upholds a complaint against a legal practitioner.

As we all know, the bill will establish a Scottish legal complaints commission. There can be no doubt that, at present, many of the consumers who make a complaint against a solicitor remain dissatisfied and believe that the complaint has not been handled fairly. Research shows that about 50 per cent of people who complain take that view. As Kenny MacAskill, Gordon Jackson and others have said, whether rightly or wrongly, there is a

perception that the Law Society of Scotland is not being impartial. I agree with what the minister said about the process and the extremely professional manner in which the Law Society handles complaints. Clearly, the introduction of the SLCC will change how complaints are handled.

The Law Society is concerned that the SLCC will not be independent of the Scottish Executive, for a number of reasons. Its concerns relate to the appointment and removal of board members, the appointment of the chief executive and control of pay and conditions. I am pleased by what the minister said today on the issue, which will make the commission more independent. However, I would have said to lawyers and the Law Society that if at any time it appeared that Scottish ministers were interfering in the work of the SLCC, Parliament would have plenty to say about that. Clearly, that will no longer be necessary, but perhaps ministers should have had more faith in the Parliament.

The Law Society is also concerned about whether the bill is ECHR compliant, because although the SLCC will be able to make an award up to a new maximum of £20,000, there will be no right of appeal to an independent or impartial body or tribunal or to the court. A number of solicitors have written to me on the issue. One letter states:

"In other words, there is only an internal appeals procedure which seems to us to be unfair. The rules should provide for an appeal to the Court".

The issue needs to be clarified. Perhaps the minister will do that in her closing speech. I have a great deal of sympathy with the view that has been expressed. Although I assume that the Executive will make the bill ECHR compliant, the matter may require more scrutiny. I am not sure whether the Justice 2 Committee has considered it.

The current limit for compensation, which is £5,000, will be raised to £20,000. It has been suggested that that will lead some members of the legal profession to withdraw from some areas of legal practice. My colleague Jeremy Purvis went into that issue in detail and highlighted a matter that I am sure will be scrutinised closely at stage 2. However, I do not believe that what has been suggested will happen. Rather, the bill will make lawyers much more careful in the advice that they give and the actions that they take. It has been suggested that lawyers know whether they will take a case as soon as someone walks through the door. I hope that that is not true. Lawyers should be willing to look at the cases of all the people who come before them. Although £20,000 is the maximum, the vast majority of claims for compensation will be for a much smaller amount.

The funding of the SLCC has provoked much comment. I support the proposal that there should be a general levy on the profession and that,

where a complaint is upheld, there should be a levy to cover the costs involved. However, I agreed entirely with the Justice 2 Committee that, when a complaint is not upheld, there should be no financial loss. Members from all parties have raised that issue today. I am glad that, unlike other members such as Mike Rumbles, who devoted a large part of their speeches to it, only a small part of my speech relates to the issue. It is a great shame that Hugh Henry, the Deputy Minister for Justice, is not present in the chamber, because there can be no doubt that, by committing himself today to lodge amendments, he will have made himself extremely popular with all lawyers in Scotland, although I am not sure that that was his intention.

I do not have time to discuss legal aid in detail but, like Jackie Baillie and others, I very much welcome the Executive's commitment in the bill to extend the legal aid scheme to non-legal practitioners, so that it will cover more social welfare law and issues.

I listened attentively to this afternoon's debate and do not believe that any other member mentioned the final issue that I want to raise. It is the issue of in-house lawyers, of which I was not previously aware in great detail. Such lawyers provide advice and representation only to their employers. I was surprised to discover that 27 per cent of the legal profession falls into that category. Should the bill have the unintended consequence that a sizeable proportion of in-house lawyers cease to hold practising certificates, that will significantly increase the levy that is payable by private practitioners and may ultimately threaten the viability of the Law Society, especially its ability to undertake non-mainstream functions, including such socially useful activities as providing comment on proposed legislation. I am sure that ministers would not want that.

The suggestion is that if in-house lawyers have to pay the full levy, some of them might not continue to maintain their practising certificate. That would not be desirable. The fact is that very few complaints are lodged against such lawyers. Having been lobbied on the issue, I think that it is perhaps one that the Executive or the committee might examine during stage 2. I would be interested to hear what might be said about it.

I am happy to support the general principles of the bill.

16:35

**Bill Aitken (Glasgow) (Con):** As my colleague Margaret Mitchell indicated, we will support the principles of the bill today, but we do so with the caveat that we assume that we will eventually be presented with a bill in which the protection of

clients is guaranteed and a high-quality and effective service to clients is also underwritten.

We recognise that there is a demand for change in the way in which the legal profession is governed, but it is essential that the procedures operate in an equitable and sensible manner.

It is important to stress, as other members have done, that despite some high-profile exceptions Scotland has been well served by its lawyers over many years. We have a legal system of which we can and should be proud. Although things might go awry from time to time, in its effectiveness and integrity our legal profession compare favourably with that in any other jurisdiction.

Mention was made of the meeting in Edinburgh yesterday at which the independence of the judiciary and of the legal profession was stressed. Mr Stevenson will recall that over the years I have been known to make some Zimbabwe analogies in the Parliament, but it would not be appropriate to accuse either Hugh Henry or Cathy Jamieson of applying the Mugabe tendency. However, the serious point is that there can be real difficulties when the Executive or Government is not totally detached—or detached as far as it can possibly be—from the judiciary and from those responsible for the law. That point must be stressed, and I am pleased that the Justice 2 Committee recognised it in its report. An arm's-length approach must be taken towards the setting up of the commission, which will not be without some difficulty.

Some years ago the Executive set up the Judicial Appointments Board in an effort, as it saw it, to make the judicial appointments process more transparent and independent of the Government. The personnel of that board is, of course, decided by the Government, so in that way its independence is compromised. It is difficult to see how the board could have been set up in any other way, or without at least some initial Executive input. However, it is essential to ensure that the Executive is as detached as possible from the process of selecting members of the commission. Hugh Henry recognised that in his speech.

We cannot have a situation in which appointments to the body are the sole preserve of the Executive. What happens down the road is a matter for the committee and for the Executive, but clearly a number of things could happen. I note the concession that the Lord President of the Court of Session will become involved, but perhaps the Parliament, consumer bodies, the Law Society and the Faculty of Advocates could also become involved. All those bodies could have an input. Perhaps we could look at the situation down south, where the Lord Chief Justice is certainly involved and the commissioner for public appointments has a big say in what happens. I put those ideas forward as constructive suggestions. It

is essential that no person who has a principal input into the making of the appointments should be a member of the Executive or a senior civil servant. That is the only way in which the necessary and vital detachment can be achieved.

The Justice 2 Committee's excellent report highlights a number of difficulties, many of which have been dealt with by various members. I find it surprising that, prior to the stage 2 process, the Executive sought to increase the level of compensation to £20,000. As other members have pointed out, because of certain matters that might arise, such a move might have the obvious—and, I am sure, unintended—effect of inhibiting lawyers who act for charitable bodies.

Although I acknowledge the minister's comments about the more remote areas of the Scotland and feel that, in that respect, his proposals fit the bill, what will happen in cities where many solicitors act for charitable organisations, sometimes without charging a fee? If they face a potential liability of £20,000 following a complaint from a member of the organisation for which they are acting, will they be prepared to carry out the work to the same extent? The minister has to consider that point.

**Jeremy Purvis:** Will the member give way?

**Bill Aitken:** Yes.

**The Deputy Presiding Officer:** You must be brief, Mr Purvis. The member is in his final minute.

**Jeremy Purvis:** I am most grateful, Presiding Officer, considering that I did not have time to take Mr Aitken's intervention.

Does Mr Aitken not realise that at the moment, if such cases go to court, the lawyers are open to similar liabilities? In that respect, there is no difference between the current situation and the provisions in the bill.

**Bill Aitken:** In making its determination, the court would operate the polluter-pays principle. In fact, I sought to intervene on Mr Purvis to ask whether, in a case in which, to save money and a lot of hassle, an ex gratia payment was made, the Executive would contribute to that payment. After all, no liability would have been decided. The minister has to consider such issues.

**Hugh Henry:** Bill Aitken confuses a number of issues. If someone in the line of work that he has outlined behaves wrongly and is guilty of serious negligence, the person affected should have the right to seek compensation, no matter whether the lawyer took on that work out of the goodness of his heart. We would be talking about a serious act of omission.

**Bill Aitken:** But a settlement might well be achieved without any liability in order to cut out

correspondence and a lot of administration. In such a case, the practitioner will lose out.

Finally, I want to deal with the appeal process, which I do not think has been dealt with as fully as it might have been. I am not confident that the process is ECHR compliant. That said, it will not take too much to set it right—although, as the bill stands, doing so would require a judicial review, which would cost an awful lot more than £20,000.

I look forward to the amended bill coming before Parliament in due course.

16:42

**Mr Stewart Maxwell (West of Scotland) (SNP):**

First, I must welcome the Conservatives' conversion to the merits of the ECHR. It is wonderful to hear their sudden interest in that piece of legislation.

As far as the bill is concerned, it has been widely accepted that, in this day and age, the current set-up for overseeing lawyers is unsustainable. Frankly, a change to the system has been long overdue. However, the fundamental question, certainly for committee members, has been whether the bill goes far enough in dealing with the split between conduct and service complaints. One general debate in committee—and, indeed, in the chamber today—has centred on whether the Executive's interpretation of that split is correct or whether, as Colin Fox and John Swinney suggested, we should go the whole way and have a one-stop shop for those making complaints.

I have to say that, in weighing up the evidence in committee, I was attracted to the single-door policy. After all, many of those who gave evidence found it difficult to define the split clearly. For example, the Law Society of Scotland said that it was very easy to split service and conduct complaints, while the Faculty of Advocates said that it was impossible to do so. The fact that even lawyers could not agree on the matter illustrates the difficulty of the problem.

In the end, we had to take a reasoned approach. Many gave compelling evidence about the difference between conduct and service complaints. That was a reasoned argument that won the day for me, but only the future will tell us whether it is correct. The bottom line is that it is not possible to please all the people all the time and, no matter what we decide, some people will be unhappy with what we do.

The main focus has been on hybrid cases—many members have focused on that problem. Will such cases start out in one camp and move to the other? Nobody is sure where they will end up. Unfortunately, it is a bit of a suck-it-and-see situation and the commission and the Law Society

will have to deal with it as they go along. That may not be as wonderfully clear as we would like to make it, but it is perhaps the best way forward. However, the commission's oversight over conduct cases will be important. John Swinney finished on that point, on which I agree with him. If the commission has such oversight and it is robust, which I hope it will be, that might quell some of the fears that some have expressed.

The point that Gordon Jackson made on the difference between conduct and service complaints was important. There is a range of issues that are clearly conduct issues and do not involve other parties. If a lawyer is involved in a criminal case because he was drink driving, singing certain songs or doing something else that was exclusively to do with conduct and nothing to do with clients, should an outside body such as the commission deal with that case? Such issues are definitely conduct issues. Therefore, it is clear that there is a split to be made and that is why I come down in support of the split.

Many members have talked about the independence of the legal profession and of the proposed complaints commission and about ECHR compliance. I am not a lawyer and I do not know whether the bill is ECHR compliant. I take the word of the minister and his legal advisers, who say that it is, but there are a number of questions on independence. The Executive has gone some of the way towards answering some of those questions. In particular, I welcome the introduction of fixed-term appointments and the creation of a partial role for the Lord President in removing commission members. That is certainly a step in the right direction towards dealing with some of the concerns. One of the biggest steps in the right direction is the removal of the powers of direction, which the minister mentioned in his speech. That must assuage many of the fears about the legal profession's independence.

I move on to the lack of a right to an external appeal. When he gave evidence, the minister talked about the process by which appeals could be made within sub-committees—if I can call them that—of the commission. I still have a great problem with that. It does not go far enough; there is a good and solid case for a right to an external appeal on the ground of fairness alone, whether or not the bill's proposals are ECHR compliant. I do not support the setting up of yet another tribunal or bureaucratic mechanism, so perhaps a right to an external appeal to the court is the answer. That will have to be considered at stage 2.

Not many members talked about costs or the Finance Committee's report, which is a good report that is at annex A of the Justice 2 Committee's report. I will give two quick quotations from it. Paragraph 22 of the Finance Committee's

report says:

"The Committee believes there should be a more effective power of strategic financial scrutiny over the costs of the Commission to avoid the creation of a needless bureaucracy."

Paragraph 27 says:

"it would have been beneficial for both the Law Society and the Committee if the background to the Executive's assumptions had been provided in the Financial Memorandum."

The Executive has rather let itself down with the financial memorandum. It could have been much more robust and helpful and provided much more information. Many members have concerns about the size of the commission. I was surprised—as many members were—by the assumption of 55 staff and by the commission's overall size; it seems much bigger than we expected it to be.

There has been too much focus on the maximum compensation figure of £20,000. That figure is the maximum and, in the vast majority of cases, compensation will be much lower. I understand the Law Society's and lawyers' fears on that, but we should think about the fact that it is a maximum.

Oversight of the master policy and the guarantee fund by the SLCC is good and I welcome it. I also welcome the changes to civil legal aid that the minister announced today.

I do not have time to go into some of the other points that I have, but I am sure that many of them will come up at stage 2. I reiterate the point, which my colleague Kenny MacAskill made, that we will support the bill's general principles.

16:49

**The Minister for Justice (Cathy Jamieson):** I thank the members who have spoken in the debate, those who have served on the Justice 2 Committee, which scrutinised the bill, and those whose work in the past helped us to get to this stage. We have had a constructive and useful discussion and I welcome members' general support for the principles of the bill.

The Executive was well aware that there were matters on which the professional legal bodies and members sought reassurance. I hope that members listened to Hugh Henry's opening speech, in which he laid out our proposed changes. With due respect to my colleagues, I am sorry that some of them have had to put lines through their speeches and cross out their various demands because we have solved them. I am sure that that will not deter any of them from claiming the credit when the news releases are issued later today. I look forward with great interest to the press cuttings that will come in over the next few days.

Like a number of members, I acknowledge that the majority of people involved in the legal profession provide a satisfactory service. We only ever hear about the things that go wrong. I have never had anyone come along to my surgery and say, "I've had a wonderful service from my lawyer and I want to let you know about it."

**Stewart Stevenson:** I have.

**Cathy Jamieson:** Stewart Stevenson, as always, has a classic case of that having happened to him.

On a serious note, I recognise the work done by the Law Society of Scotland. We have not always agreed and there have been some fairly robust exchanges, even in getting this far, but the Law Society assisted us in getting information directly from people who felt that they had something to contribute because of their experiences.

I will deal briefly with a number of the key issues that have been raised. Like Stewart Maxwell, I welcome the conversion of the Tories to the ECHR cause, but I hope that every member who has argued for the independence not just of the legal profession but of the judiciary remembers that when they are writing to me to complain about decisions that individual members of the judiciary have taken.

**Bill Aitken:** Not guilty.

**Cathy Jamieson:** I will scan my correspondence to ensure that that is correct.

**Margaret Mitchell:** There is a difference between the voluntary and very good record that we had previous to the incorporation of the ECHR into Scots law and the blanket coverage of the ECHR, which has had unintended and unsatisfactory consequences.

**Cathy Jamieson:** Allow me to move on to whether the bill is compatible with the ECHR. The Executive believes that it is. In practical terms, it was certified as such and the Presiding Officer took that view. We have taken a view because of information based on case law that where a body is carrying out a specialised regulatory function, all that is required is what is seen to be a broadly fair and reasonable procedure. We see the consumer complaints against lawyers falling into that category.

We have given consideration to a number of points that were raised throughout stage 1 and in the chamber today. I remind members, in case they missed Hugh Henry's points—or perhaps some had not had time to put lines through their speeches—that we intend to lodge amendments at stage 2 that will give commission members fixed terms of at least four years, or five after the first round of appointments; restrict reappointments to once only, after a gap of at

least three years; require the Lord President's agreement to the removal of commission members; remove ministers' general direction-making powers in relation to the commission; and ensure that binding decisions on the merits of complaints are taken only by commission members. Those proposals are an important step forward and I am glad that they have been accepted.

I do not accept that the bill threatens the independence of the legal profession. What it is intended to do—and what I believe it does—is to provide a system for dealing with consumer complaints that is independent of the profession. It should not be seen by the profession as a threat, for exactly the reasons that I outlined earlier, because the majority of lawyers will continue, as they have done, to give a perfectly satisfactory service to their clients.

The bill will help to redress the balance and to address some of the public perception problems that exist by improving the standing of lawyers and giving their clients the confidence of knowing that if they have a problem with the service that they receive, the matter will be investigated properly and action may be taken as a result.

There has been thoughtful discussion of how the distinction between service complaints and conduct complaints should be dealt with, which I am sure will continue during the Justice 2 Committee's deliberations at stage 2. Having thought long and hard about the issue, we believe that the proposed split represents the best way forward, although we recognise that there are difficult issues to resolve—for example, the public might not always be able to understand that distinction immediately. The professional disciplinary tribunals already perform some of those functions and we believe that that should continue to be the case.

However, it is important that protocols are drawn up. It is not the case, as has been suggested, that we should just leave people to get on with things; there is more work to be done. I remind members that the new commission would probably have jurisdiction over about 80 per cent of complaints because only 20 per cent of the complaints that the Law Society receives relate purely to conduct matters.

**Mr Swinney:** In evidence to the Justice 2 Committee, the convener of the Scottish Solicitors Discipline Tribunal said:

"if we try to define misconduct we will fail."—[*Official Report, Justice 2 Committee*, 16 May 2006; c 2426.]

If the people in the tribunal tell us how difficult it is to define misconduct, surely that is a compelling argument for ensuring that the commission deals with conduct and service complaints together.

**Cathy Jamieson:** We also heard powerful arguments from people—including members of Mr Swinney's party—who have thought the matter through and who believe that the proposed split is correct. As Gordon Jackson informed us, there are examples of other professions in which the ability exists to distinguish between situations in which the level of service has been a problem and those that should be dealt with by professional disciplinary bodies. I am sure that the matter will continue to be discussed during the bill's passage.

I want to move on to some specific points, the first of which is case-by-case advice and grant payments. We know that some voluntary sector organisations have expressed concern that a system of signing up for legal aid funding on a case-by-case basis would pose problems for them. As Hugh Henry outlined, we will lodge stage 2 amendments that are designed to give the Scottish Legal Aid Board a strategic grant-funding power. That will complement the case-by-case funding and provide alternative routes that some providers will find attractive. Such an arrangement will help us to improve the planned delivery of advice services so that they match unmet needs. *[Interruption.]*

**The Deputy Presiding Officer:** Order. Conversation is building up to a disruptive level. I would appreciate it if members would listen to the remainder of the minister's speech in silence.

**Cathy Jamieson:** Thank you very much, Presiding Officer.

Mike Pringle suggested that in-house lawyers might decide not to continue to hold practising certificates. It is our view that lawyers who do not require practising certificates could opt out at the moment, but choose not to do so. They choose to pay for the benefits of having that status and we do not believe that that would necessarily change. It is obviously important that the commission could balance the levies to take account of that.

I turn to an issue that Charlie Gordon raised, about which he feels very strongly and on which he has represented his constituents well. Mr Gordon acknowledged that, as Hugh Henry's response to his question pointed out, that issue is reserved to Westminster. It is one on which my Westminster colleague, Sandra Osborne MP, has been extremely forthright and, in seeking a way forward, perhaps Mr Gordon could enlist the services of his Westminster colleague to pursue matters through the Westminster Parliament. It is not simply that any legislation would have to be retrospective; it is that the matter could not be dealt with by the Scottish Parliament, but would require to be addressed at Westminster.

I see that I am probably running out of time, Presiding Officer. I will wind up. I thank members

for their comments this afternoon. I am particularly pleased about the welcome that was given to Hugh Henry's announcement on the public defender solicitors. We will ensure that we have a public network of practitioners who are able to deal with civil law in areas where there is unmet demand.

In terms of the provisions that we are making, it has never been the case that we simply decided to have change for change's sake. That is not what the bill is about. We want to make real improvements and create real opportunities for trust to be rebuilt. I hope that the bill will give consumers the confidence to complain where that is the right thing to do; lawyers the incentive to deal with their complaints at source; and the commission the means to adjudicate fairly and quickly when direct mediation has broken down. We look forward to continuing to work with the Justice 2 Committee to improve the bill as it goes forward at stage 2.

## Parliamentary Bureau Motion

17:01

**The Deputy Presiding Officer (Murray Tosh):** The next item of business is consideration of motion S2M-4758, in the name of Margaret Curran, on membership of a committee.

*Motion moved,*

That the Parliament agrees that Carolyn Leckie be appointed to replace Frances Curran on the Equal Opportunities Committee.—[*Ms Margaret Curran.*]

**The Deputy Presiding Officer:** The question on the motion will be put at decision time.

## Decision Time

17:01

**The Deputy Presiding Officer (Murray Tosh):** There are five questions to be put as a result of today's business.

The first question is, that amendment S2M-4755.3, in the name of Fiona Hyslop, which seeks to amend motion S2M-4755, in the name of Peter Peacock, on education, be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

### For

Adam, Brian (Aberdeen North) (SNP)  
 Baird, Shiona (North East Scotland) (Green)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Byrne, Ms Rosemary (South of Scotland) (Sol)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Martin, Campbell (West of Scotland) (Ind)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Sheridan, Tommy (Glasgow) (Sol)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Watt, Ms Maureen (North East Scotland) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brown, Robert (Glasgow) (LD)  
 Brownlee, Derek (South of Scotland) (Con)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West) (Ind)

Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Wallace, Mr Jim (Orkney) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

Curran, Frances (West of Scotland) (SSP)  
 Fox, Colin (Lothians) (SSP)  
 Kane, Rosie (Glasgow) (SSP)

Leckie, Carolyn (Central Scotland) (SSP)

**The Deputy Presiding Officer:** The result of the division is: For 35, Against 78, Abstentions 4.

*Amendment disagreed to.*

**The Deputy Presiding Officer:** The next question is, that amendment S2M-4755.2, in the name of Lord James Douglas-Hamilton, which seeks to amend motion S2M-4755, in the name of Peter Peacock, on education, be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### FOR

Aitken, Bill (Glasgow) (Con)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brownlee, Derek (South of Scotland) (Con)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (Sol)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Frances (West of Scotland) (SSP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fox, Colin (Lothians) (SSP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)

Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kane, Rosie (Glasgow) (SSP)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (Sol)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watt, Ms Maureen (North East Scotland) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

Martin, Campbell (West of Scotland) (Ind)

**The Deputy Presiding Officer:** The result of the division is: For 16, Against 100, Abstentions 1.

*Amendment disagreed to.*

**The Deputy Presiding Officer:** The next question is, that motion S2M-4755, in the name of Peter Peacock, on education, be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### FOR

Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)

Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Wallace, Mr Jim (Orkney) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brownlee, Derek (South of Scotland) (Con)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Frances (West of Scotland) (SSP)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fox, Colin (Lothians) (SSP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Grahame, Christine (South of Scotland) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Kane, Rosie (Glasgow) (SSP)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Lochhead, Richard (Moray) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Martin, Campbell (West of Scotland) (Ind)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Robison, Shona (Dundee East) (SNP)  
 Scott, John (Ayr) (Con)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Watt, Ms Maureen (North East Scotland) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

#### ABSTENTIONS

Baird, Shiona (North East Scotland) (Green)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Byrne, Ms Rosemary (South of Scotland) (Sol)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Sheridan, Tommy (Glasgow) (Sol)

**The Deputy Presiding Officer:** The result of the division is: For 63, Against 46, Abstentions 9.

#### *Motion agreed to.*

That the Parliament welcomes the priority given to improving education standards by the Scottish Executive and the achievements delivered by schools, local authorities and other partners in taking forward the comprehensive modernisation of our schools and ensuring that Scotland's education system is amongst the best in the world; recognises that the Executive's investment in new and refurbished schools, increased teacher numbers, reducing class sizes, strong parental involvement, stable industrial relations and more targeted support for children with additional support needs is providing the right environment for real and lasting change for Scotland's children; believes that the education of all Scotland's children and young people is fundamental to securing a more productive, integrated and successful Scotland in which all our young people can compete in a global economy and all our 16 to 19-year-olds are in education, employment or training, and calls on all those in the Parliament to focus on Scotland's future and put the education of our children before divisive arguments about separating Scotland from the rest of the United Kingdom.

**The Deputy Presiding Officer:** The next question is, that motion S2M-4713, in the name of Cathy Jamieson, on the general principles of the Legal Profession and Legal Aid (Scotland) Bill, be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brown, Robert (Glasgow) (LD)  
 Brownlee, Derek (South of Scotland) (Con)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Frances (West of Scotland) (SSP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Fox, Colin (Lothians) (SSP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)

Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kane, Rosie (Glasgow) (SSP)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Campbell (West of Scotland) (Ind)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Petrie, Dave (Highlands and Islands) (Con)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Etrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)

Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watt, Ms Maureen (North East Scotland) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Monteith, Mr Brian (Mid Scotland and Fife) (Ind)

#### ABSTENTIONS

Byrne, Ms Rosemary (South of Scotland) (Sol)  
 Sheridan, Tommy (Glasgow) (Sol)

**The Deputy Presiding Officer:** The result of the division is: For 115, Against 1, Abstentions 2.

#### *Motion agreed to.*

That the Parliament agrees to the general principles of the Legal Profession and Legal Aid (Scotland) Bill.

**The Deputy Presiding Officer:** The next question is, that motion S2M-4758, in the name of Margaret Curran, on membership of a committee, be agreed to.

#### *Motion agreed to.*

That the Parliament agrees that Carolyn Leckie be appointed to replace Frances Curran on the Equal Opportunities Committee.

## C-me West Lothian

### **The Deputy Presiding Officer (Murray Tosh):**

The final item of business is a members' business debate on motion S2M-4387, in the name of Mary Mulligan, on C-me West Lothian. The debate will be concluded without any question being put.

#### *Motion debated,*

That the Parliament congratulates West Lothian Council, NHS Lothian, Lothian and Borders Police and the Scottish Children's Reporter Administration for launching the C-me information-sharing system which, at a time when there is a great deal of concern about child protection issues, is an example of agencies working together to create a clear picture of a child's needs through sharing relevant background information and will improve the delivery of services to children throughout West Lothian.

17:07

**Mrs Mary Mulligan (Linlithgow) (Lab):** I have been told to talk quickly, for some reason. I thank the members who have stayed for the debate.

Unfortunately, we are all too well aware of the dreadful child deaths that have been reported in recent years, when children such as Caleb Ness and Kennedy McFarlane lost their lives and individual agencies were left to ask, "How could this happen again?" Every time, communication has been central to problems that had not been resolved. We should clearly acknowledge that child protection is complicated and that many people are doing their best to protect a child. However, if their work and information are not joined up, the gaps in the system can result in a child being injured or killed.

What can be done? In West Lothian, which includes my constituency of Linlithgow, the West Lothian community health and care partnership, which includes social policy, housing and education services and NHS Lothian, is working in partnership with Lothian and Borders police, the Scottish Children's Reporter Administration and general practitioners on the roll-out of systems, services and training to promote the use of C-me, which supports child protection and assists in early identification, intervention, integrated assessment and planning for children.

The information that is available includes records from the social work, community information and health systems. It includes two schools systems, the general practice administration system for Scotland—GPASS—West Lothian Council's inquiry tracking system and records from the academy housing database and the social services information database—SSID. There are so many systems that it is no wonder that it has been hard to bring them all together.

C-me gives access to many more than 500,000 records from partnership agencies for the West Lothian population of 170,000, but the information can be used only when consent to share information has been established for a child or adult, or if there is justification for overriding consent, such as for child protection. Otherwise, users of the system can access only records that are normally available from their own agencies. That addresses the concern that existed about people's right to confidentiality.

C-me contains a number of information-sharing elements that are designed to support the delivery of joined-up children's services across a number of professional agencies that work around children. It is built around a child index. The index is a searchable client database with pre-matched records that show the key demographics of all children in the West Lothian region. It shares basic information details about individuals, such as their name, address, date of birth and general practitioner, which enables easy confirmation that the contact details are correct and allows information relating to the record to be tracked, shared and managed appropriately. Contact details of linked universal professionals—such as school doctors and principal teachers—are prominently displayed against each child's record. Crucially, a chronology of significant events, positive outcomes and relevant factors, and a referral and assessment history for each child from all the host systems is available, which allows users of the system to see at a glance the background of any individual on the system. The chronologies are perceived as being a particularly important aspect of the information-sharing system because they enable practitioners to see emerging patterns of events, which can lead to earlier identification of risks, appropriate interventions and the prevention of harm.

The system will provide a secure messaging facility to allow the teams of professionals who are working with children and families to communicate readily with one another and share relevant reports and information. Secure messaging allows the confidential transfer of sensitive information about a case, and there is the ability to add reports and plans as attachments where doing so is relevant. Once information is collated, it can be securely shared across agencies within the team that is working around the child.

Unfortunately, too many other facilities are being provided for me to go into now, so I will simply list them. There is an electronic directory of children's services, automatic alert notification, permission-based security, electronic interagency referral discussion forms and case-load management. In order to deliver benefit and best value, those elements have been configured for the future performance of the children's integrated

assessment framework. The C-me system is configured to support the three streams of child protection, complex needs and additional support for learning, which are the indispensable foundations of an integrated package of support and care around the child.

In West Lothian, the first tranche of 200 users from all the partnerships has been trained and has access to C-me. Training is essential if the opportunities that have been presented are to be taken. The first group that has been introduced to C-me includes community nurses in the children's sector, senior social policy personnel, key education professionals, administration teams in the Armadale cluster in my constituency, and—crucially—the child protection unit in Lothian and Borders police.

A user feedback has been incorporated into the plan so that we can receive feedback on how the system works in practice from people who already use it. People in West Lothian will work closely with our colleagues in various divisions of the Scottish Executive. I promised them that I would remind the minister that the system is good, but that it still needs to be financially supported. There are issues relating to financial support, not only for West Lothian Council, but for other local authorities that want to take the system on board.

I bring this issue before MSPs today to congratulate those in West Lothian who are involved in C-me's development and its use, and also to ask that we share good practice. We have 32 local authorities in Scotland; we do not need each of them to reinvent the wheel on every issue. Let us share good practice. I would be delighted to hear of other people's examples.

Time is crucial to this issue. No one wants to hear of other children suffering because we have not managed to find a way to work together. I commend West Lothian's C-me information-sharing system to the Parliament.

17:15

**Fiona Hyslop (Lothians) (SNP):** I congratulate Mary Mulligan on securing the debate. Child protection is one of the most serious issues that we have to deal with in the Parliament.

The minister will know, from his time on the Education Committee, of my long-held interest in child protection. During the committee's inquiry into the Executive's progress in delivering on its child protection agenda, an issue that came up time and again was the need to share information. Shared information and information technology systems will not, however, protect children; people will protect children.

In having this debate and in focusing on this agenda, it is important that we consider the risk for children. Too often in the chamber—usually when it is busier than this—we talk about child protection in relation to stranger danger as opposed to the problems that arise when children are at risk from people whom they know. The vast majority of children who are at risk are at risk from people whom they know. The people who can make the decisions to intervene are those who have contact with the families, whether through the health service, through social work or through education. That is why having shared information is vital.

There is a wider agenda of child protection and about drugs workers thinking about the child within the family. We have had debates on that and concerns have been expressed—not least by the First Minister—about how children from drug-misusing families are identified and supported. The danger of women underreporting the fact that they have a drug problem because their children might be taken away from them is still with us, and I hope that we can have a considered debate on that.

We must also have a serious debate about risk in general. We do not want to wrap our children in cotton wool or to have an explosion of Big Brother back-watching that protects the agencies but does not necessarily deliver for the children. I heard worrying feedback from somebody who said that when drugs workers visited a drug-misusing adult, the first thing that they would ask about was their sexual behaviour, not whether they had children. In the past, the main concern of drugs workers was the transmission of health risks, not whether there was a child in the family. I hope that the training has improved that situation. That switch in thinking is as important as the IT systems that surround it.

A crucial concern, which I raised in our debate on "Hidden Harm: Responding to the needs of children of problem drug users", is the recommendation in the report of the child protection audit and review, "It's everyone's job to make sure I'm alright", on having a national information system. We know that national computer systems that are run by government run into big problems: we heard only this week about the collapse of one such system. Perhaps a more localised approach could help. However, one of the concerns that has been raised, following the experience of the tragic cases that we have had, is the fact that vulnerable children are often moved, which makes them more vulnerable. Therefore, the system cannot be localised to just one area.

I support Mary Mulligan's plea for the Executive to reconsider the funding for such systems. I had a meeting in the Parliament with representatives from the City of Edinburgh Council and NHS

Lothian who were very concerned, following the publication of the O'Brien report, that they desperately needed a system, which I understand they will pilot from the C-me system. They were worried about the funding for that system because child protection was being treated as a national issue and systems were being piloted, at that time, in Aberdeen and Lanarkshire—in the “Hidden Harm” debate, Hugh Henry mentioned the fact that something was happening in Lanarkshire. Meanwhile, other authorities were left wanting to do something. They did not want to use their own resources, as they knew that a national resource was coming. They thought that they might be able to use part of the efficient government funding, but they were not sure about that. In the meantime, councils are having to take responsibility for developing such systems.

I congratulate West Lothian on what it has done. I know that the people there are not backwards in coming forward to use IT systems. Indeed, I visited the Strathbrock partnership centre in Broxburn about five years ago to see the work that it does with care of the elderly, which links up health, social work and so on, and I remember saying at that time, “This would be ideal for children and child protection.” I am glad that the participants in C-me are getting national recognition in the Parliament.

We get a regular, six-monthly check on outputs from the Government, but can the minister give us the latest details on progress? How can systems such as C-me be used throughout the country, so that we have a national link-up, without worries and concerns being created that, all of a sudden, there will be an identity system for all children? The system is very much about protection for vulnerable children. We need progress and we need to keep at it because the system is helping to protect children who are at risk from people in their own homes; such children represent the vast majority of children who are at risk.

17:20

**Robin Harper (Lothians) (Green):** I thank Mary Mulligan and congratulate her on bringing this short debate to the chamber this evening.

It is important that we share good practice, and West Lothian Council has a lot of good practice. Recently, West Lothian won a best council of the year award for its overall performance and it is clear that it is taking the lead with the C-me project. When we are handling confidential information, it is important that we develop systems that people can be confident and comfortable in using. From the description that Mary Mulligan gave us, it certainly seems that people will be confident and comfortable working with the C-me system and that the confidentiality

of the information will be preserved, with information being shared only among those people who need to see it and have proper permission to use it.

I can see great advantages in the system across the board, in terms of child protection, and further up the scale. West Lothian has done some super work with children as young carers, but there is a big problem with children who have been in care when it comes to them leaving care. I would think that a system such as C-me would be useful when people are assisting children through the difficult period of transition from being in care to living fully independent lives. For those who are still at any kind of risk, it will be useful for that kind of information, where appropriate, to be shared.

I congratulate Mary Mulligan and I congratulate West Lothian Council on this very important system.

**Fiona Hyslop:** I appreciate Robin Harper's comments, but does he agree that we should urge the Parliament to have a broader debate on risk issues, perhaps on a day when we do not have an interesting visitor addressing the Labour group? Perhaps more of the Labour members could then join Mary Mulligan and contribute to the debate.

**Robin Harper:** Fiona Hyslop is absolutely right. We need further debate on the matter. I did not realise that Mary Mulligan was in a rush to go and listen to that very important person, so I shall terminate my remarks at this point.

**The Deputy Presiding Officer:** I assume, Mr Brown, that they are all referring to you. *[Laughter.]*

17:24

**The Deputy Minister for Education and Young People (Robert Brown):** Thank you, Presiding Officer. I have an uneasy feeling about who people are talking about when references are made to “Mr Brown this” and “Mr Brown that”.

I join others in congratulating Mary Mulligan on obtaining this evening's debate. She is right to remind us of what lies behind the sometimes obscure and technical issues about information sharing; I refer to the welfare of children against a background, sometimes, of nasty events that have taken place in the past. She is also right to talk about the important and difficult issue of confidentiality and the importance of training. Those aspects have emerged through all the developments that have taken place.

I welcome the C-me initiative, which has been in operation since May of this year, if I am not mistaken. It seems to be a good example of multi-agency co-operation. Today, as it happens, I was over the road at Our Dynamic Earth launching

another aspect of the child protection agenda relating to the pathfinder initiatives with regard to the domestic abuse agenda, which is not unconnected to the issue that we are talking about. It is heartening to have concrete examples in which working together is working on the ground.

I am aware of the hard work that has gone into the development. Dr Helen Hammond and her team and professionals and managers from the agencies in West Lothian have embraced the organisational issues that are associated with the type of working that is involved. However, the challenge is to ensure that their work ties in with other related developments, particularly the work of the pan-Lothian data-sharing partnership.

As members will be aware, Tom McCabe wrote to national health service and local authority chief executives and chief constables in January to ask them to establish multi-agency data-sharing partnerships. There are now 14 of those partnerships throughout Scotland, each of which is based on a health board area. That echoes Fiona Hyslop's point about the national and the local. The role of the partnerships is to manage the electronic sharing of personal data using the e-care framework securely, legally and appropriately. I have some knowledge of the policy aspects, but I confess that I must leave it to others to explain and be knowledgeable about the more detailed and complex issues.

The Lothian partnership involves NHS Lothian, all four councils in the area and Lothian and Borders police. We see the partnerships as an essential element in making progress with the information-sharing agenda. A key challenge for West Lothian will be to ensure that its approach and technical solution connect to wider Lothian developments and, as Fiona Hyslop rightly said, to developments beyond that, bearing in mind people's propensity to move about. Work must continue throughout Lothian on the delivery of an information-sharing infrastructure that will protect children and other vulnerable people.

Members have made the point that the developments have come at a time when most people accept the need for better multi-agency co-operation, integration and sharing of information. The Executive's child protection agenda has produced a considerable drive to ensure that that happens more effectively than it sometimes has in the past. As Mary Mulligan rightly said, poor information sharing has been at the heart of, and a contributory factor to, several cases of catastrophic child protection failure. The Education Committee has flagged up the importance of co-operation to effective child protection, an issue on which Fiona Hyslop touched. We have all been concerned to address those issues.

Mary Mulligan mentioned the use of a chronology of significant events. I know from my experience as convener of the Education Committee and since then that that has been a major recommendation of various inquiries and of investigations into the child protection structure, although it has been difficult to implement the system effectively throughout the country. I am glad to learn that that is one of the successful features of the arrangements in West Lothian.

Information sharing is a tool but, at the end of the day, what we do with the information is important. The getting it right for every child agenda is designed to promote and support multi-agency working, information sharing and co-operation. A linked issue is the importance of introducing early legislative provision to deal with situations when a child is at risk, which is why such measures will be part of the proposed legislation to implement Sir Michael Bichard's recommendations, which will be introduced to Parliament later this month.

The getting it right for every child reforms are about ensuring that children get the help that they need, when they need it. That help must be appropriate, proportionate and timely. If we have the information-sharing arrangements right, that is much more likely to happen. The getting it right team is already supporting pathfinder activity in the Highlands, as well as domestic abuse activity, which I mentioned. The aim is to develop tools to improve integrated practice, which is easy to say but much more difficult to bring about in an effective and worthwhile fashion.

Any initiative such as that in West Lothian is to be encouraged. We can learn a good deal from the positive activity there—people have considered the issues and tried to find solutions to them and worked that through. Their experience can be fed into the national activities, to allow others to learn from it. We know that by improving the quality and speed of information sharing, we can make better decisions—which is the aim—and act more quickly to help. The C-me development and others will show the way for that to happen. The Executive is interested in working with West Lothian as learning partners to share lessons and continue the progress. That will no doubt include discussions about the funding issues that members have mentioned. I thank Mary Mulligan for bringing the debate to the Parliament.

*Meeting closed at 17:30.*

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